



Gracia Hillman/EAC/GOV

12/13/2006 03:11 PM

To Jeannie Layson/EAC/GOV@EAC

cc ddavidson@eac.gov, ggilmour@eac.gov,  
jthompson@eac.gov, pdegregorio@eac.gov,  
psims@eac.gov, twilkey@eac.gov

bcc

Subject Re: Fw: Your Dec. 11 Posting

Yes, we should have him post your response.

At least he acknowledged your response and admits that these are his opinions and that he does not think of himself as a journalist.

Jeannie Layson/EAC/GOV

12/13/2006 02:52 PM

To pdegregorio@eac.gov, ghillman@eac.gov, ddavidson@eac.gov

cc twilkey@eac.gov, jthompson@eac.gov, ggilmour@eac.gov, psims@eac.gov

Subject Fw: Your Dec. 11 Posting

Commissioners,  
Would you like me to request that he post my response?

----- Forwarded by Jeannie Layson/EAC/GOV on 12/13/2006 02:48 PM -----

"Rick Hasen" [REDACTED]

12/13/2006 02:44 PM

To jlayson@eac.gov

cc

Subject Re: Your Dec. 11 Posting


028193

**Deliberative Process  
Privilege**

Jeannie Layson /EAC/GOV  
12/13/2006 10:14 AM

To pdegregorio@eac.gov, ghillman@eac.gov,  
ddavidson@eac.gov  
cc twilkey@eac.gov, psims@eac.gov, jthompson@eac.gov,  
ggilmour@eac.gov, bwhitener@eac.gov  
bcc

Subject Rick Hasen response-need your approval

History:  This message has been replied to.

Commissioners,

I want to respond to Rick Hasen's post regarding EAC and the fraud report. My suggested response is below, and his original post follows. Please let me know if you agree that I should attempt to correct the misinformation he posted. If so, please let me know if you approve of my suggested response. Thank you.

Mr. Hasen,

I write to point out incorrect information you posted on your website on December 11, 2006. You wrote: "Note what's missing compared to the earlier version leaked to the USA Today Newspaper." No one at the EAC leaked anything to USA Today. The reporter asked for a copy of the staff report about the fraud resesarch that was presented at a public meeting in May to our Board of Advisors and the Standards Board, and the EAC provided it to him. This information was presented and discussed at a meeting that was open to the public, so we provided materials distributed at the meeting to anyone who requested it. The staff report about the fraud project was also distributed to every member of both advisory boards. Go [here](#) to view the Federal Register notice about the public meeting at which this project and many others were discussed.

The statement you attribute to one of the consultants is absolutely correct. As stated by their contract, these consultants were hired so that the EAC could "...obtain consulting services from an individual who can provide advice drawn from broad professional and technical experience in the area of voter fraud and intimidation."

As for your reference to what's "missing compared to the earlier version," the report contains the complete summaries of every interview conducted by the consultants as well as every book, article, report or case that was reviewed. It does not contain the synopsis of those interviews, which were written by the consultants. EAC provided the individual summaries so readers could reach their own conclusions about the substance of the interviews.

EAC's interpretation of HAVA and its determination of what it will study and how it will use its resources to study it are matters of agency policy and decision. These are not, nor should they be, determinations or decisions made by consultants. The EAC has the ultimate responsibility for the reports it issues, and it is incumbent upon the agency to conduct due diligence to ensure reports, data or any other information is complete and accurate before it is adopted by the Commission.

As someone with a public platform who informs the public about matters regarding election administration, I would appreciate it if you would extend the same professional courtesy most journalists do and contact the agency in the future if you have questions or concerns about EAC policy or actions. You may reach me directly at 202-566-3103. I appreciate your consideration in this matter.

Sincerely,

Jeannie Layson  
Director of Communications

028194

**More on FL-13, and a Role for the EAC?**

When I saw this headline on the *Sarasota Herald Tribune* web page, I thought it must have been about the FL-13 race.

Over on the election law listserv, Doug Johnson, responding to my commentary calling for the House to investigate the problems and declare a revote in the FL-13 race, suggested that perhaps the EAC is better situated to conduct an investigation than the House of the problems in the FL-13.

I'm afraid we might not be able to count on the EAC to conduct an investigation that is well-funded, tough, and fair. Politics appears to be creeping in to decisions of the EAC's advisory board, and there's real concern about the EAC's vote fraud report. Note what's missing compared to the earlier version leaked to the USA Today newspaper. Tova Wang, who authored the draft report for the EAC, issued the following statement to me: "My co-consultant and I provided the EAC with a tremendous amount of research and analysis for this project. The EAC released what is their report yesterday."

The EAC has also lost two commissioners, one Republican and one Democrat, who appeared to be tough-minded and fair. I am very worried about the fairness and non-partisanship of the new rumored nominees.

In short, the EAC has to prove it is up to the task of fair and serious inquiry before it could be trusted with something like an investigation of the FL-13.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

Karen Lynn-Dyson/EAC/GOV

02/17/2005 04:02 PM

To Gracia Hillman/EAC/GOV@EAC, Paul  
DeGregorio/EAC/GOV@EAC, DeForest Soaries  
Jr./EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC  
cc Carol A. Paquette/EAC/GOV@EAC, Juliet E.  
Thompson/EAC/GOV@EAC

bcc

Subject Commissioner approval (by 2/25) of contracting process for  
work on Provisional Voting and Voter ID projects

Commissioners-

As was discussed during our session on February 17, 2005, please ***review and provide your approval ,  
disapproval or amendments*** to the following items by Friday, February, 25, 2005:

1. The attached Scope of Work which outlines the tasks related to contract work around projects relating to voluntary guidance on provisional voting and voter identification procedures.
2. The proposal will be advertised beginning **February 28, 2005.**
3. The deadline for submitting proposals will be **March 14, 2005.**
4. Proposal review will be completed by EAC staff by **March 17, 2005**
5. Staff will recommend a contractor to the Commissioners on **March 18, 2005.**
6. Commissioners will be asked for their decisions no later than **Tuesday, March 22, 2005**



Statement of Work - Provisional Voting, Voter ID.doc

Thank you for your help and attention to this matter.

K  
Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

028196

February 14, 2005

## PROVIDING EAC ASSISTANCE IN DEVELOPING VOLUNTARY GUIDANCE ON PROVISIONAL VOTING AND VOTER IDENTIFICATION PROCEDURES

0.0 Contract Title: Assistance to the U.S. Election Assistance Commission in the Development of Guidance on Provisional Voting and Voter Identification Procedures

1.0 Background: Sec. 302(a) of HAVA requires that all States allow the casting of provisional ballots in instances where a voter declares their eligibility to vote but their name does not appear on the official list of eligible voters, or an election official asserts that a voter is not eligible to vote. This section describes several requirements for implementation of provisional voting, but the States have considerable latitude in specifying how to carry out these requirements. The EAC seeks to examine how provisional voting was implemented in the 2004 general election and to prepare guidance for the States on this topic for the 2006 Federal elections.

HAVA Sec. 303(b) mandates that first time voters who register by mail are required to show proof of identity before being allowed to cast a ballot. The law prescribes certain requirements concerning this section, but also leaves considerable discretion to the States for its implementation. The EAC seeks to examine how these voter identification requirements were implemented in the 2004 general election and to prepare guidance for the States on this topic for the 2006 elections.

One of the remedies for a voter not having an acceptable proof of identity is to allow the voter to cast a provisional ballot, either at the polling place or by mail. This linkage between these two HAVA sections provides a rationale for conducting research on these topics in parallel. However, it is anticipated that two separate guidance documents will result.

2.0 Objective: The objective of this contract is for EAC to obtain assistance with the collection, analysis and interpretation of information regarding HAVA provisional voting and voter identification requirements for the purpose of drafting guidance on these topics for promulgation to the States in time for implementation for the 2006 Federal elections. The anticipated outcome of this activity is the generation of concrete policy recommendations to be issued as voluntary guidance for States.

3.0 Scope: In general the Contractor shall be responsible for all research and analysis activities, including the conduct of public hearings for fact finding and public comment purposes. However, in light of the urgent need to get this work underway, the EAC has scheduled a public hearing on February 23, 2005, on the topic of provisional voting.

An initial framework for provisional voting policy has been set by the court decisions rendered on the election procedures utilized in the 2004 election. The 6<sup>th</sup> Circuit decision, in particular, has drawn some boundaries which must be given due regard in the course of considering future policy alternatives for provisional voting.

Notice of public meetings and hearings is required to be published in the Federal Register. The Contractor shall be responsible for preparing the notice documents, and the EAC will submit the notices and cover the cost of publication. In addition, draft guidance documents must be published in the Federal Register to obtain public comment prior to their adoption. Again, the Contractor will work with the EAC to prepare the draft documents for publication, which the EAC will submit and cover the cost of publication. Comments received will be provided to the Contractor for analysis and incorporation into the final guidance documents, as appropriate.

#### 4.0 Specific Tasks

For ease of reference, following task 4.3 the remaining tasks are listed separately under the headings of Provisional Voting and Voter Identification Requirements. It is understood that the work on these two topics will be conducted essentially concurrently, with Voter Identification activities starting approximately one month after Provisional Voting.

- 4.1 Prepare a project work plan. The Contractor shall prepare and deliver a brief Project Plan not later than 10 days after contract award. This plan shall describe how the Contractor will accomplish each of the project tasks, including a timeline indicating major milestones. A single document will be prepared to include both provisional voting and voter identification tasks. The Plan shall be presented at a project kickoff meeting with the EAC Project Manager.
- 4.2 Submit monthly progress reports. The Contractor shall submit a monthly progress report within 2 weeks of the end of each month. This report shall provide a brief summary of activities performed and indicate progress against the timeline provided in the Project Plan. Any issues that could adversely affect schedule should be identified for resolution. Budget status should also be provided.
- 4.3 Conduct periodic briefings for the EAC. The Contractor shall periodically meet with the EAC Project Manager and the lead Commissioner for this work to discuss research findings and progress. The Project Plan should make allowance for this activity. The number and frequency of briefings will be determined by the Contractor Project Manager and the EAC Project Manager as the work progresses. The Contractor may also be required to periodically brief the full Commission on their work.

#### Provisional Voting

- 4.4 Collect and analyze State legislation, administrative procedures, and court cases. An understanding of the disparities and similarities of how provisional

voting was implemented around the country will provide a baseline for the consideration of future approaches. Seventeen States never had provisional voting before HAVA was enacted, while many other States did. A State-by-State compendium of the legislation, procedures, and litigation reviewed shall be delivered along with the analysis results.

- 4.5 Recommend alternative approaches for future implementation of provisional voting. The Contractor shall conduct a literature review to identify other research results and data available on this topic. The EAC Election Day Survey, for example, contained several questions on provisional voting. The EAC will make these survey data available to the Contractor. Based on their analysis of available research and the results of Task 4.5, the Contractor shall diagnose the problems and challenges of provisional voting implementation and hypothesize alternative approaches.

The Contractor shall assess the efficacy of these alternatives in relation to the following inter-related policy objectives: (1) enabling the maximum number of eligible voters to cast ballots that will be counted; (2) providing procedural simplicity for voters, poll workers, and election officials; (3) minimizing opportunity for voter fraud; and (4) maintaining a reasonable workload for election officials and poll workers. Additional policy considerations may be identified in the course of this research effort. The Contractor shall document and brief these alternatives to the Commission.

- 4.6 Prepare preliminary draft guidance document. Based on the feedback received from the Commission, the Contractor shall prepare a draft guidance document for review and comment by the EAC Board of Advisors. EAC will convene a Board of Advisors meeting or teleconference for the discussion of this document. The Contractor shall provide the document in advance and participate in the Board meeting to answer questions and record comments.
- 4.7 Revise draft guidance for publication in the Federal Register. The Contractor shall revise the guidance document as appropriate to reflect the comments of the EAC and the Board of Advisors and provide the draft guidance for publication in the Federal Register by the EAC.
- 4.8 Arrange one public hearing for receiving public comment on draft guidance. This hearing should be scheduled 30 days after the initial publication date. The Contractor shall select the location in consultation with the EAC. No speakers will be required. EAC will handle publicity for the meeting.
- 4.9 Prepare final guidance document for EAC adoption. Review all comments received in response to Federal Register publication and at public hearing and revise guidance document as appropriate. Provide final version to EAC for adoption.

#### Voter Identification Requirements

- 4.10 Collect and analyze State legislation, administrative procedures, and court cases. It is assumed that the collection of information for analysis of voter identification requirements will be performed concurrently with the research for Task 4.5. An understanding of the disparities and similarities of how voter identification requirements were implemented around the country will provide a baseline for the consideration of future approaches. A State-by-State compendium of the legislation, procedures, and litigation reviewed shall be delivered along with the analysis results.
- 4.11 Convene a half day public hearing on the topic of voter identification requirements. The Contractor shall be responsible for all aspects of planning and conducting this hearing in consultation with the EAC. The Contractor shall identify three panels of three to four speakers each. The Contractor shall arrange for speaker attendance to include travel and per diem expenses. The EAC will provide publicity for the hearing. The Contractor shall prepare a document summarizing the proceedings and containing all testimony provided.
- 4.12 Recommend alternative approaches for future implementation of HAVA voter identification requirements. The Contractor shall conduct a literature review to identify other research results and data available on this topic. Based on their analysis of available research and the results of Task 5.11, the Contractor shall diagnose the problems and challenges of voter identification and hypothesize alternative approaches. The Contractor shall coordinate with the EAC to identify appropriate policy objectives by which to assess these alternatives. The Contractor shall document and brief these alternatives to the Commission.
- 4.13 Prepare preliminary draft guidance document. Based on the feedback received from the Commission, the Contractor shall prepare a draft guidance document for review and comment by the EAC Board of Advisors. EAC will convene a Board meeting or teleconference for the discussion of this document. The Contractor shall provide the document in advance and participate in the Board meeting to answer questions and record comments.
- 4.14 Revise draft guidance for publication in the Federal Register. The Contractor shall revise the guidance document as appropriate to reflect the comments of the EAC and the Board of Advisors and provide the draft guidance for publication in the Federal Register by the EAC.
- 4.15 Arrange one public hearing for receiving public comment on the draft guidance. This hearing should be scheduled 30 days after the initial publication date. The Contractor shall select the location in consultation with the EAC. No speakers will be required. EAC will handle publicity for the hearing.
- 4.16 Prepare final guidance document for EAC adoption. Review all comments received in response to Federal Register publication and at public hearing and revise guidance document as appropriate. Provide final version to EAC for adoption.



Contract Type. The contract type will be Time and Materials with a ceiling of

6.0 Place of performance. The principal place of performance will be the Contractor's place of business. Meetings and occasional work efforts may be performed at the EAC offices.

7.0 Period of Performance. The period of performance is from date of award until October 28, 2005.

8.0 Schedule of Deliverables:

- Project plan – 10 days after contract award
- Progress reports – monthly
- Briefings – as required
- Analysis report on provisional voting - TBD
- Alternatives report on provisional voting – TBD
- Preliminary draft guidance on provisional voting - TBD
- Draft guidance on provisional voting for publication – 8/2005
- Public hearing on draft guidance – 30 days after publication
- Final guidance on provisional voting for EAC adoption – 9/2005
- Analysis report on voter identification requirements – TBD
- Public hearing on voter identification requirements – TBD
- Summary of voter identification requirements hearing - TBD
- Alternatives report on voter identification requirements - TBD
- Preliminary draft guidance on voter identification requirements - TBD
- Draft guidance on voter identification requirements for publication – 9/2005
- Public hearing on draft guidance – 30 days after publication
- Final guidance on voter identification requirements to EAC for adoption – 10/2005

REMAINING STANDARD CONTRACT TERMS TO BE PROVIDED.



Raymundo  
Martinez/EAC/GOV  
03/27/2005 05:47 PM

To Gracia Hillman/EAC/GOV@EAC, Paul  
DeGregorio/EAC/GOV@EAC, DeForest Soaries  
Jr./EAC/GOV@EAC, Raymundo Martinez/EAC/GOV@EAC

cc

bcc

Subject Century Foundation Press Release

Commissioners:

Another group has been formed to look at election administration reform (see below)...just thought you would want to know.

Ray.

**The Century Foundation Assembles Working Group to Help States Improve Voting Process**

3/23/2005

Release Type: Informational

---

**Contact**

Christy Hicks, [REDACTED]

FOR IMMEDIATE RELEASE

*Group Will Make Recommendations that Balance Ballot Integrity with Voting Rights and Accessibility*

March 23, 2005, New York City - In an effort to improve future elections, The Century Foundation has created a Post-2004 Working Group on Election Reform. This bipartisan group of prominent election law and voting reform experts will produce concrete policy options states can follow in order to improve the voting process.

The members of the working group are: Tova Wang, senior program officer and democracy fellow, The Century Foundation (executive director); Doug Chapin, director, Electionline.org; Norm Ornstein, resident scholar, American Enterprise Institute; Guy-Uriel E. Charles, associate professor of law, University of Minnesota Law School; Edward B. Foley, professor of law and director, Election Law@Moritz, Moritz College of Law, Ohio State University; Samuel Isacharoff, visiting professor at NYU School of Law and Harold R. Medina Professor in Procedural Jurisprudence, Columbia University School of Law; Martha Kropf, assistant professor of political science, University of Missouri, Kansas City; Roy Schotland, professor of law, Georgetown University Law Center; and Dan Tokaji, assistant professor of law and associate director, Election Law@Moritz, Moritz College of Law, Ohio State University. Download [working group member bios](#) (PDF).

The 2004 presidential election was the first big test of the 2002 Help America Vote Act (HAVA). Enacted in the wake of the deeply flawed 2000 election, the law was passed in an effort to both improve the voting process and to increase voter access. However, the results on Election Day were mixed at best. While there were improvements in the voting process in a number of jurisdictions, the ways in which many states carried out the law's mandates

028202

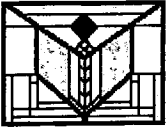
produced a number of unintended consequences, resulting in allegations of fraud and voter disenfranchisement.

The working group's mission is to promote an election system that balances ballot integrity with voting rights and accessibility. The group will assess the key provisions of HAVA, analyze the ways in which they were implemented in 2004, and provide guidelines for how they ought to be implemented by the states in the future. In addition, the working group will analyze how states are preparing to comply with HAVA requirements that have implementation deadlines at the end of this year. They plan to provide the best policy options for states to meet these mandates in a report scheduled for release in late spring.

"While the goals of HAVA were generally positive, the law turned out to be deficient in many areas and implementation by the states was flawed," said Tova Wang, executive director of the working group. She noted that a variety of lawsuits have been filed throughout the country about the implementation of HAVA, and advocates and government officials continue to spar over interpretations of the law's requirements and flaws in the voting process. "The disputes almost universally revolve around one core principle: the competing values of ensuring ballot integrity while maintaining wide voting accessibility. We will take a very practical approach to solving the problems that HAVA may have inadvertently created and provide realistic approaches the states can take in order to fulfill the promise that HAVA originally intended," she added.

The Century Foundation has been at the forefront of efforts to reform the voting system since the issue achieved national prominence following the 2000 presidential contest. In 2001, the foundation cosponsored The National Commission on Election Reform, cochaired by former Presidents Gerald Ford and Jimmy Carter. The final report of that commission served as the model for important measures in the Help America Vote Act. Information on issues related to election reform is available at [www.tcf.org](http://www.tcf.org).

For more information about the Working Group or election reform issues, contact Christy Hicks [REDACTED]



DeForest Soaries  
Jr./EAC/GOV  
03/27/2005 07:57 PM

To Raymundo Martinez/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Century Foundation Press Release

Misery loves company.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** Raymundo Martinez

**Sent:** 03/27/2005 04:47 PM

**To:** Gracia Hillman; Paul DeGregorio; DeForest Soaries Jr.; Raymundo Martinez

**Subject:** Century Foundation Press Release

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Ray.

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3/23/2005

Release Type: Informational

**Contact**

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028204

Medina Professor in Procedural Jurisprudence, Columbia University School of Law; Martha Kropf, assistant professor of political science, University of Missouri, Kansas City; Roy Schotland, professor of law, Georgetown University Law Center; and Dan Tokaji, assistant professor of law and associate director, Election Law@Moritz, Moritz College of Law, Ohio State University. Download [working group member bios](#) (PDF).

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For more information about the Working Group or election reform issues, contact Christy Hicks at [\[REDACTED\]](#).



Gracia Hillman /EAC/GOV  
03/28/2005 01:20 AM

To Raymundo Martinez/EAC/GOV@EAC, Paul  
DeGregorio/EAC/GOV, DeForest Soaries Jr./EAC/GOV  
cc  
bcc

Subject Re: Century Foundation Press Release

I am not surprised although I am a little surprised at who is on this working group.

Ray, Did the folks at Moritz mention this to you?

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** Raymundo Martinez

**Sent:** 03/27/2005 04:47 PM

**To:** Gracia Hillman; Paul DeGregorio; DeForest Soaries Jr.; Raymundo Martinez

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Electionline.org; Norm Ornstein, resident scholar, American Enterprise Institute; Guy-Uriel E. Charles, associate professor of law, University of Minnesota Law School; Edward B. Foley, professor of law and director, Election Law@Moritz, Moritz College of Law, Ohio State University; Samuel Isacharoff, visiting professor at NYU School of Law and Harold R. Medina Professor in Procedural Jurisprudence, Columbia University School of Law; Martha Kropf, assistant professor of political science, University of Missouri, Kansas City; Roy Schotland, professor of law, Georgetown University Law Center; and Dan Tokaji, assistant professor of law and associate director, Election Law@Moritz, Moritz College of Law, Ohio State University. Download [working group member bios](#) (PDF).

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For more information about the Working Group or election reform issues, contact Christy Hicks at [christy.hicks@tcf.org](mailto:christy.hicks@tcf.org).

## PURCHASE ORDER TERMS AND CONDITIONS

### 552.229-70 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

### 552.210-79 PACKING LIST (DEC 1989)

(a) A packing list or other suitable shipping document shall accompany each shipment and shall indicate (1) Name and address of consignor; (2) Name and address of consignee; (3) Government order or requisition number; (4) Government bill of lading number covering the shipment (if any); and (5) Description of the material shipped, including item number, quantity, number of containers, and package number (if any).

(b) When payment will be made by Government commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include: (1) Cardholder name and telephone number and (2) the term "Credit Card".

### 52.232-1 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if: (a) The amount due on the deliveries warrants it; or (b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

### 52.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjunction with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

#### PROMPT PAYMENT

Prompt Payment clause 52.232-25 is incorporated in this contract by reference. The clause contains information on payment due date, invoice requirements, constructive acceptance and interest penalties. Certain portions of the clause regarding payment due date, invoice requirements, and constructive acceptance have been extracted for your convenience. All days referred to in the extracts below are calendar days.

(a)(2) . . . The due date for making invoice payments by the designated payment office shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor . . .

(a)(4) . . . An invoice shall be prepared and submitted to the designated billing office specified in the contract. A proper invoice must include the items listed in . . . (i) through . . . (viii) . . . If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office . . . Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor . . .

(i) Name and address of the Contractor.

(ii) Invoice date.

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms), Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

NOTE: Invoices must include the ACT number (block 4) and shall be submitted in an original only, unless otherwise specified, to the billing office designated in block 24 to receive invoices. The "remit to" address must correspond to the remittance address in block 12.

(a)(6)(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in block 20) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality or contractor compliance with a contract provision . . .

### 52.222-40 SERVICE CONTRACT ACT OF 1965, AS AMENDED - - CONTRACTS OF \$2,500 OR LESS (MAY 1989)

Except to the extent that an exception, variation, or tolerance would apply if this contract were in excess of \$2,500, the Contractor and any subcontractor shall pay all employees working on the contract not less than the minimum wage specified under Section 6 a) (1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-206). Regulations and interpretations of the Service Contract Act of 1965 are contained in 29 CFR Part 4.

### 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)

### 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

(52.222-41 and 52.222-42 apply to service contracts when the amount exceeds \$2,500).

The GSA Form 2166, Service Contract Act of 1965 and Statement of Equivalent Rates for Federal Hires is attached hereto and made a part hereof.

### 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request the Contracting Officer will make their full text available:

#### FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

Applicable to purchase orders for supplies or services:

- 52.203-1 Officials Not to Benefit (APR 84)
- 52.203-3 Gratuities (APR 84)
- 52.203-5 Covenant Against Contingent Fees (APR 84)
- 52.203-6 Restriction on Subcontractor Sales to the Government (JUL 85)
- 52.203-7 Anti-Kickback Procedures (OCT 88)
- 52.212-9 Variation in Quantity (APR 84)  
(In the preceding clause, the permissible variations are stated in the schedule.)
- 52.222-3 Convict Labor (APR 84)
- 52.222-26 Equal Opportunity (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-36 Affirmative Action for Handicapped Workers (APR 84)(Applies when amount exceeds \$2,500.)
- 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 88)(Applies whenever clause 52.222-35 is included.)
- 52.223-6 Drug Free Workplace (JUL 90)(Applies if contract is awarded to an individual.)
- 52.225-3 Buy American Act - Supplies (JAN 89)
- 52.225-11 Restrictions on Certain Foreign Purchases (MAY 92)
- 52.232-25 Prompt Payment (SEP 92)
- 52.233-1 Disputes (DEC 91)
- 52.233-3 Protest After Award (AUG 89)
- 52.246-1 Contractor Inspection Requirements (APR 84)
- 52.249-8 Default (Fixed-Price Supply and Service)(APR 84)

Applicable to purchase orders for supplies:

- 52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation - (MAR 86)(Applies when amount is between \$2,500 and \$10,000.)
- 52.222-20 Walsh-Healey Public Contracts Act (APR 84)(Applies when amount exceeds \$10,000.)
- 52.243-1 Changes - Fixed Price (AUG 87)
- 52.249-1 Termination for Convenience of the Government (Fixed Price)(Short Form)(APR 84)

Applicable to purchase orders for services:

- 52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation - (MAR 86)(Applies when amount exceeds \$2,500.)
- 52.243-1 Changes - Fixed Price (APR 84) - Alt. II
- 52.249-4 Termination for Convenience of the Government (Services)(Short Form)(APR 84)

028208



(i.e. state name, photo i.d., etc) and a maximum requirement (i.e., state name, photo i.d., etc.). It makes no sense to me how they could possibly arrive at a different percentage for these requirement levels.

- My third issue is the persistent use of the phrases "ballot access" and "ballot integrity" without some definition or some explanation of what those concepts are.

Commissioner Davidson also asked that I ask some questions related to the first bullet, above, specifically relating to the comparison of states without validation that the state's turn out for 2004 was "normal" for that state as opposed to an anomaly.

Last, Commissioner Davidson asked that you all coordinate your selected questions to avoid having two commissioners wanting to ask the same question.

Please let me know if you have any questions or concerns about these questions or if I can explain my reasoning behind the questions.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

012820

**Deliberative Process  
Privilege**

Juliet E. Hodgkins/EAC/GOV  
02/06/2007 03:53 PM

To "Davidson, Donetta" <ddavidson@eac.gov>, Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC, Thomas R.

cc

bcc

Subject Questions for Eagleton

Commissioners,

Commissioner Davidson asked that I forward to each of you the following questions that I drafted at her request last week. She also asked that I let you know that she is interested in asking questions 3, 5, and 7.

1. What is meant by "statistically significant"? Please explain in plain language when a result is considered statistically significant. Also, please provide an academic definition of that term. How did you calculate the mean and standard deviations from the mean?
2. What data was used to derive these research findings?
3. Did you attempt to find information or data related to elections prior to 2004 in states that have voter identification requirements?
4. What other variables other than voter identification were tested? Contested race? Historical voter turnout? Weather? Media attention to the area? Candidate activities/campaign?
5. What was the impact (positive or negative) of these other factors on voter turnout?
6. How did you control these variables/factors when measuring the impact of voter ID on voter turnout or on prospective voter turnout? For example, did you only apply the factor to like circumstances – similar historical turnout, same level of contention in the races of the ballot, etc.
7. Would the study and your conclusions have been more reliable if additional data had been analyzed? Data such as voter turn out in states that have had voter ID in past Federal elections?
8. What data did you use to identify voter turnout?
9. What data did you use to identify whether people or groups of people were more or less likely to vote when identification is required?
10. Why did you use census data as opposed to data on registered voters? Doesn't census data also include information from people who are not registered voters and people who are not even eligible to be registered voters?

In addition to the questions above, I provided the following feedback to Commissioner Davidson concerning the draft report provided by Eagleton:

- I am troubled by the concept that Eagleton compared states as if they were equal. They assume that, all factors being equal, that the voter turn out in each state would be equal. I am not at all certain that this is the case. Further, there is no evidence that the statistician actually compared previous years' turnout in the same state to determine whether 2004 was some sort of anomaly for that state (high or low). Long story short, I am very skeptical of the data that they used to draw conclusions. We should ask questions about what data they used, how they parsed it, why they used the data, what other data could have been used to provide better, more reliable results.
- My second concern is how they (statistically speaking) differentiate between a minimum requirement

Margaret Sims/EAC/GOV  
09/25/2006 12:36 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, twilkey@eac.gov  
cc Karen Lynn-Dyson/EAC/GOV@EAC  
bcc

Subject Preparation for Vote Fraud Conference in Utah

History:

 This message has been replied to.

Matt (and Amy) are working on a speech for the Chairman to deliver at the Vote Fraud conference in Utah at the end of the week. Matt has asked for the consultants' definition of vote fraud/voter intimidation and the draft recommendations. As neither have been through full Commission review, I would like to speak with one or both of you before I drop this information in any one Commissioner's lap. Matt is looking for this information today. FYI, attached are copies of the consultants' definition and the draft recommendations from the consultants and others from the working group. Also attached is a summary of concerns expressed by the working group. --- Peggy



Fraud Project Definition-rev 6-27.doc



RECOMMENDATIONS - final2.doc



Working Group Recommendations final.doc



Key Working Group Comments and Observations AND concerns final.doc

0288212

Margaret Sims/EAC/GOV

09/27/2006 12:51 PM

To bwhitener@eac.gov

cc Juliet E. Hodgkins/EAC/GOV@EAC, Karen  
Lynn-Dyson/EAC/GOV@EAC

bcc

Subject Status Report on Voting Fraud-Voter Intimidation Study

History:

This message has been replied to and forwarded.

Bryan:

An electronic copy of the status report is attached, as requested for the USA Today inquiry. The status report includes the attachment listing the Working Group members. I suggest that you check to ensure that I have protected the copy against any manipulation, and protect it yourself if I have not, before sending it out to anyone. --- Peggy



EAC Boards VF-VI Status Report.doc

Margaret Sims/EAC/GOV

06/27/2006 12:12 PM

To Jeannie Layson/EAC/GOV@EAC

cc twilkey@eac.gov, Karen Lynn-Dyson/EAC/GOV@EAC

bcc

Subject U.S. News & World Report

Jeannie

We suspect that someone from the Voting Fraud-Voter Intimidation Project Working Group has been talking to reporters, tipping them off about what we are finding in our preliminary study, and referring them to our consultants (although the information could have come from anyone on the EAC boards, too). Apparently, the U.S. News & World Report reporter who contacted me also contacted both consultants working on the project.

Based on my recommendation, Tova Wang and, possibly, Job Serebrov, who are on EAC personal services contracts for our voting fraud and voter intimidation research, will seek further clarification from you about what they can and cannot say to reporters and in public fora about vote fraud and voter intimidation and about EAC's research. I have previously advised Tova and Job not to discuss the work they are doing for us as this is EAC research, the Commissioners have not yet received and accepted the final report, and the Commission has not approved their speaking about the EAC research.

Tova plans to call you tomorrow (Tuesday, June 27) about the issue. In addition to the reporter's inquiry, she has been invited to speak on the subject at the summer conference of the National Association of State Legislatures. She has plenty of knowledge of the subject in her own right (apart from our study), but is having trouble differentiating between her own work and the work she is doing for us. Please, just let me know what you advise her to do.

--- Peggy

0228214

Margaret Sims/EAC/GOV  
07/17/2006 10:15 AM

To jthompson@eac.gov  
cc twilkey@eac.gov, Karen Lynn-Dyson/EAC/GOV@EAC  
bcc  
Subject Voting Fraud-Voter Intimidation Draft Report

Julie:

I received pieces of the draft final report on voting fraud-voter intimidation this morning. If it is OK with you, I'll hold it until all I have all of the pieces, so that you can review it as a whole document. --- Peggy

028282

Jeannie Layson/EAC/GOV  
03/13/2006 06:09 PM

To klynndyson@eac.gov  
cc  
bcc

Subject Fw: Standards Board and Study on Voting Fraud

History:

This message has been replied to.

Karen,

I need info from you for question number 2.... Thanks.

----- Forwarded by Jeannie Layson/EAC/GOV on 03/13/2006 05:10 PM -----

"ROY SALTMAN" [REDACTED]

03/13/2006 05:01 PM

To "Jeannie Layson" <jlayson@eac.gov>

cc

Subject Standards Board and Study on Voting Fraud

Dear Ms. Layson:

I have two questions about the 2005 Annual Report that you gave me.

(1) Who are, currently, the nine members of the Executive Board of the Standards Board?

(2) On p. 27 of the 2005 Annual Report, it states that EAC contracted with two consultants to conduct preliminary research on the issues of voting fraud and voter intimidation. Can you tell me who these organizations or individuals are, and when their reports might be available? If they are available now, how can I obtain them?

Regards,  
Roy Saltman



Laiza N. Otero/EAC/GOV  
02/24/2006 08:56 AM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Fw: Tova Wang/Job Serebrov/Improving Election Data  
Collection Project--FY06 Budget

History: This message has been replied to.

Sounds good. Would later this afternoon work for you? Right now I'm working on the management guidelines with Brian. Let me know, thank you!

Laiza N. Otero  
U.S. Election Assistance Commission  
1225 New York Avenue, Suite 1100  
Washington, DC 20005  
(202)566-1707  
Karen Lynn-Dyson/EAC/GOV

Karen Lynn-Dyson/EAC/GOV

02/24/2006 08:41 AM

To Laiza N. Otero/EAC/GOV@EAC  
cc  
Subject Fw: Tova Wang/Job Serebrov/Improving Election Data  
Collection Project--FY06 Budget

FYI-

On the budget figure for Improving Election Data Collection

Also, when you're ready let's go through more of the detail on your proposed agenda.

For example, I'd like for us to have some presentations (brief) on various subject areas, so that folks have a basis for their discussion and conclusions.

As we discussed, I think we also will want to have some breakout working groups which focus on particular issues/areas of concern.

Let me know when you're ready to pursue.

K

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

----- Forwarded by Karen Lynn-Dyson/EAC/GOV on 02/24/2006 08:34 AM -----

Diana Scott/EAC/GOV  
02/23/2006 05:04 PM

To Thomas R. Wilkey/EAC/GOV@EAC,  
klynndyson@eac.gov@EAC, Margaret  
Sims/EAC/GOV@EAC



**Deliberative Process  
Privilege**

217870



Gracia Hillman/EAC/GOV

11/09/2005 12:40 PM

To Paul DeGregorio/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV, Raymundo Martinez/EAC/GOV, Juliet  
E. Thompson/EAC/GOV, Thomas R. Wilkey/EAC/GOV  
cc Karen Lynn-Dyson/EAC/GOV

bcc

Subject Re: Call from Paul Vinovich

History: This message has been forwarded.

What Paul V said is NOT at all an accurate statement of what Tova said. I was there. This is very disappointing to read. I may call Mr. V myself.

I watched and heard what was said and by whom. I will be glad to brief you tomorrow morning.

-----  
Sent from my BlackBerry Wireless Handheld  
Paul DeGregorio

**From:** Paul DeGregorio  
**Sent:** 11/09/2005 11:28 AM  
**To:** Gracia Hillman; Donetta Davidson; Raymundo Martinez; Juliet Thompson;  
Thomas Wilkey  
**Cc:** Karen Lynn-Dyson  
**Subject:** Call from Paul Vinovich

I took a telephone call this morning from Paul Vinovich. He had attempted to reach Gracia, but since she was not here, he asked Sheila if I was in the office so he spoke to me.

Paul was very upset with comments that Tova Wang had made at yesterday's AEI's meeting in which she basically indicated that voter fraud did not exist in the USA. He asked how a person who believes that voter fraud does not exist--or not seem at least willing to listen to both sides--can be hired by the EAC to do a study on voter fraud/voter intimidation. I explained to Paul (as I have now had to explain to many others) that Tova was "balanced" on the study with Job Severbrov. He did not know Job but was well-aware of Tova's positions and was concerned that her public comments indicate that she will not be fair in looking at this issue. I explained to Paul that we were monitoring the work of our consultants on this study and no report would be issued publicly without the support of at least three commissioners. I sent him some background information on Job. I think this study will need close monitoring.

Paul DeGregorio  
Vice Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005  
1-866-747-1471 toll-free  
202-566-3100  
202-566-3127 (FAX)  
pdegregorio@eac.gov  
www.eac.gov

**Deliberative Process  
Privilege**



Gracia Hillman/EAC/GOV  
11/09/2005 12:40 PM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Draft Letter to Linda Lamone

**History:**

✉ This message has been replied to.

Tom's response was that the letter looked fine. Setting aside NAS, I wanted to make certain that pilot projects on list sharing were a part of our thinking on this study, irrespective of who handles the project for us. You will notice that I did not mention NAS in my letter to Linda.

-----  
Sent from my BlackBerry Wireless Handheld  
Karen Lynn-Dyson

**From:** Karen Lynn-Dyson  
**Sent:** 11/08/2005 05:22 PM  
**To:** Thomas Wilkey  
**Cc:** Sheila Banks; Bert Benavides  
**Subject:** Re: Draft Letter to Linda Lamone

Tom-

I'll defer to you on this one since I'm not at all aware of how things have been left with NAS ( what , if anything, has been said to Herb Lin) and what the timelines are for possibly working with him on the technology refresh project .

K  
Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

028218

Carol A. Paquette/EAC/GOV  
09/21/2005 07:45 PM

To klynndyson@eac.gov@EAC  
cc  
bcc

Subject SOW for voting fraud consultants

History:

 This message has been forwarded.

Karen -

Did some tightening up on language in this SOW. Let me know if you have any changes you want to make ASAP so this can go in for contract processing tomorrow. Thanks!



Wang consulting contract.doc

Carol A. Paquette  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

028219



"Job Serebrov"

09/06/2005 11:42 AM

To twilkey@eac.gov, klynndyson@eac.gov, [REDACTED]

cc [REDACTED], jthompson@eac.gov

bcc

Subject Draft Schedule Proposal for Vote Fraud Group

History: This message has been forwarded.

I have attached a draft proposed schedule of events for our discussion today. Please keep in mind that this is only a proposal but I thought that we needed somewhere to start from.

Regards,



Job Task Contractor Deadline EAC

028220

**Deliberative Process  
Privilege**

Carol A. Paquette/EAC/GOV  
09/01/2005 06:41 PM

To gvogel@eac.gov@EAC  
cc klynndyson@eac.gov@EAC  
bcc  
Subject reference materials for vote count/recount RFP

Gaylin -

There are 3 files of reference materials for this RFP: the spreadsheet of vote definitions and two summaries of statutory provisions on recounts (which are not consistent in information provided, e.g., one provides statutory language without commentary - the other provides summarized commentary without statutory language). We need a brief paragraph to accompany each to explain what the Offeror can glean from it. For example, the spreadsheet on vote definitions has references in it such as "See pdf of Arkansas statutes in file.", "There is a pdf of the manual in the document folder", "See .doc in file." "I was not able to find copies of these manuals." So this is clearly an internal working draft, not really a final product. How would the Offeror use this in preparing their proposal? Similarly, the two disparate summaries of statutes on recounts - we need to explain that this is a preliminary collection of information and that the two files are different in terms of content. Again, how would the Offeror use this information in preparing their proposal? Also, the title that printed out on first file citing statutory language is not correct and needs to be changed. It currently reads "Voting System Certification by State as of April 22, 2005." There is no heading on the second file.

This is a voluminous amount of information. We need to think about whether it is needed for the preparation of proposals. I will be considering this point this evening when I review the SOW and proposal instructions. Would appreciate your thoughts on this tomorrow.

Carol A. Paquette  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

028221

Margaret Sims/EAC/GOV  
08/16/2005 04:45 PM

To Karen Lynn-Dyson/EAC/GOV@EAC, Nicole  
Mortellito/CONTRACTOR/EAC/GOV@EAC

cc

bcc

Subject Suggested Changes for Voting Fraud SOW

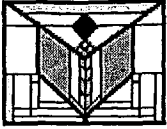
Karen and Nicole:

Please see suggested changes in the attached (highlighted as tracked changes). In some cases, I could only note that we should insert something to address a particular issue. I don't have specifics for the inserts because we have not had time to discuss or confirm exactly what should be added. --- Peggy



voterfraud project consultants.2changes.doc

028222



Adam Ambrogi/EAC/GOV  
04/21/2005 05:29 PM

To klynndyson@eac.gov  
cc gvogel@eac.gov  
bcc  
Subject Voter Fraud Research

You've probably seen this already, but I wanted to toss it your direction. It's an interesting report on the topic that Demos did last year. Might not be a bad starting point for ideas, ect.

Best,  
Adam

-----  
Adam D. Ambrogi  
Special Assistant to Commissioner Ray Martinez III  
U.S. Election Assistance Commission  
1225 New York Ave. NW - Suite 1100  
Washington, DC 20005




202-566-3105 EDR\_-\_Securing\_the\_Vote.pdf

028223

**Deliberative Process  
Privilege**

Margaret Sims/EAC/GOV  
12/14/2006 12:40 PM

To Gracia Hillman/EAC/GOV@EAC  
cc "Donetta Davidson" <Ddavidson@eac.gov>, "Jeannie Layson" <jlayson@eac.gov>, Juliet E. Thompson/EAC/GOV@EAC, "Karen Lynn-Dyson"  
bcc  
Subject Re: People For 

Commissioner Hillman:

PFAW was not represented on the Working Group for the Voting Fraud-Voter Intimidation research project. Also, I have had no communications with the organization about the study. I did work with Jeannie and Gavin on a response to PFAW's FOIA request for the study. Jeannie should have the final copy of that reply.

Peggy Sims  
Election Research Specialist

Gracia  
Hillman/EAC/GOV

12/14/2006 12:07  
PMDear Commissioner  
Hillman:

To "Paul DeGregorio" <pdegregorio@eac.gov>, "Donetta Davidson" <Ddavidson@eac.gov>, Thomas R. Wilkey/EAC/GOV@EAC, Juliet E. Thompson/EAC/GOV@EAC, Margaret Sims/EAC/GOV@EAC,  
"Jeannie Layson" <jlayson@eac.gov>, "Karen Lynn-Dyson" <klynn-dyson@eac.gov>  
cc "Sheila Banks" <sbanks@eac.gov>  
Subject People For  
t

I know that People For the American Way delivered petitions to EAC about release of the Fraud report but I need to know what other communications EAC has had with People For about the study.

Was it represented on the study's working group? If so, by whom? Did they write to us and did we answer? Did anybody from there talk with anybody at EAC about the study and our work? Thanks.

-----  
Sent from my BlackBerry Wireless Handheld

028224





"Job Serebrov"

08/09/2005 09:24 PM

To klynndyson@eac.gov

cc twilkey@eac.gov, nmortellito@eac.gov

bcc

Subject Re: Commission

History:

This message has been forwarded.

Karen:

Please call me on Friday August 19th at 501.374.2176.

Talk to you then,

Job

--- klynndyson@eac.gov wrote:

> Confirmed for Friday August 19, 2005 at 11:30 AM  
> EDT.  
>  
> We will call you at a number you will provide at a  
> later date.

>  
> Karen Lynn-Dyson  
> Research Manager  
> U.S. Election Assistance Commission  
> 1225 New York Avenue , NW Suite 1100  
> Washington, DC 20005  
> tel:202-566-3123

>  
>  
>  
> "Job Serebrov"  
> 08/04/2005 07:41 PM

>  
> To  
> klynndyson@eac.gov  
> cc

>  
> Subject  
> Re: Commission

>  
>  
>  
>  
>  
> 11:30 eastern or central time?

>  
>  
>  
> --- klynndyson@eac.gov wrote:

>  
> > Job-

>  
> > We would like to tentatively schedule our

028225

> > conversation for August at 11:30  
> > or August 19 at 11:30.  
> >  
> > We will work diligently to get a description of  
> the  
> > consulting assignment  
> > to you by mid-week next week.  
> >  
> > (Please remember that I am out of the office next  
> > week so be certain to  
> > reply to all on this e-mail.)  
> >  
> > Regards-  
> >  
> > K  
> >  
> > Karen Lynn-Dyson  
> > Research Manager  
> > U.S. Election Assistance Commission  
> > 1225 New York Avenue , NW Suite 1100  
> > Washington, DC 20005  
> > tel:202-566-3123  
> >  
> >  
> >  
> >  
> > "Job Serebrov"~~Personal and Confidential~~  
> > 08/02/2005 04:30 PM  
> >  
> > To  
> > klynndyson@eac.gov  
> > cc  
> >  
> > Subject  
> > Re: Commission  
> >  
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> >  
> >  
> > Karen:  
> >  
> > It could take me until Friday to give you an  
> answer.  
> > I  
> > am waiting for a response to know whether and when  
> I  
> > will be in Wisconsin. If I go, it will be by car.  
> I  
> > will let you know as soon as I can.  
> >  
> > Job  
> >  
> > --- klynndyson@eac.gov wrote:  
> >  
> > > Job-  
> > >  
> > > I write to see if you would be available on  
> August  
> > > 16 or August 17 at

> > > 10:30 AM to speak, for about one hour, with Tom  
> > > Wilkey, EAC's Executive  
> > > Director, and me, about the consulting work  
> > related  
> > > to our voter fraud and  
> > > intimidation project.  
> > >  
> > > Thanks for letting me know your availability.  
> > >  
> > > I will be certain to get you a Statement of Work  
> > > before the end of this  
> > > week.  
> > >  
> > > Regards-  
> > >  
> > > Karen Lynn-Dyson  
> > > Research Manager  
> > > U.S. Election Assistance Commission  
> > > 1225 New York Avenue , NW Suite 1100  
> > > Washington, DC 20005  
> > > tel:202-566-3123  
> > >  
> >  
> >  
> >  
> >  
> >  
>  
>  
>  
>

028227

Attorney-Client  
Privilege

Tamar Nedzar/EAC/GOV

08/22/2005 04:09 PM

To Margaret Sims/EAC/GOV@EAC, Diana  
Scott/EAC/GOV@EAC

cc Karen Lynn-Dyson/EAC/GOV@EAC

Subject Employment Contracts for RFP Consultants 

Please see the attached documents for RFP project consultants. Karen asks that you revise and edit the documents as soon as you are able. Please send revised documents to Karen.

Thank you for your assistance.

Tamar Nedzar  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
(202) 566-2256  
<http://www.eac.gov>  
[TNedzar@eac.gov](mailto:TNedzar@eac.gov)



Gaylin Vogel Adam Ambrogio 8\_22.doc



Marta Casper 8\_22.doc



Qwen Hoffman 8\_22.doc Richard Dickerson 8\_22.doc

028228



08/26/2005 04:48 PM

To klynndyson@eac.gov

cc

bcc

Subject Re: Kick off activities for the EAC Voting fraud/voter intimidation project

History: This message has been forwarded.

Hi Karen,

I'm actually going on vacation next week. I'll do my best to be available by cell phone whichever day works better for everyone -- [REDACTED] Also, the 12th was the one day I mentioned might be difficult for me that week, but if it is the only possibility I will rearrange my schedule. Keep me posted.

Thanks for everything and hope you have a great weekend. Tova

----- Original Message -----

**From:** [klynndyson@eac.gov](mailto:klynndyson@eac.gov)

**To:** [sda@eac.gov](mailto:sda@eac.gov); [wang@eac.gov](mailto:wang@eac.gov); [serebrov@eac.gov](mailto:serebrov@eac.gov)

**Cc:** [twilkey@eac.gov](mailto:twilkey@eac.gov); [nmortellito@eac.gov](mailto:nmortellito@eac.gov); [jthompson@eac.gov](mailto:jthompson@eac.gov)

**Sent:** Friday, August 26, 2005 3:32 PM

**Subject:** Re: Kick off activities for the EAC Voting fraud/voter intimidation project

All-

Although Tom Wilkey and I are still working to process each of your contracts on this project, we would like to tentatively schedule an in-person meeting on September 12, here in Washington.

In the meantime, I'd like to propose that we all have a short teleconference call next Wednesday or Thursday at 1:00 PM to begin to talk through the scope of this project and the respective roles and responsibilities each of you might take on.

Could you let me know your availability for a 45 minute call on August 31 or September 1 at 1:00?

Thanks

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

028229

Attorney-Client  
Privilege



"Job Serebrov"

09/12/2005 10:14 AM

To "Karen Lynn Dyson" <klynndyson@eac.gov>

cc

bcc

Subject Steve's replacement

History:

✉ This message has been replied to.

Karen:

I want to put in my two cents on Steve's replacement. I am concerned with the timing of all of this and whether we will have to start the process all over. As I see it you can replace Steve with another politically neutral or you could have Tova and I do the project and place one or more of those Steve suggested as replacements on a working group.

One comment on the working group. I do not necessarily agree with Tova's suggested list. I indicated to Tova that I would need to see a bio on each of those she listed, stressing electoral experience and an indication of whether the person agreed to be on the working group. Upon reflection and given the need to keep all of these groups politically balanced, I think that those working on the project (Tova, me, and anyone else) should each pick two or three people for the working group and submit those names to the Commission for vetting and approval.

What do you think about all of this?

Job

Attorney-Client  
Privilege



"Job Serebrov"

09/13/2005 04:02 PM

To klynndyson@eac.gov

cc

bcc

Subject Re: Consulting fees

Karen:

I sent Nicole, in response to her question on this issue, the information that before taking the federal judicial clerkship I was charging \$175 per hour but now would charge \$200 per hour. However, I did some calculations for her and figured that this may not be the way to arrive at a compensation figure because at 15 hrs per week for 4 months=\$48,000 and at 20 hrs per week for 4 months=\$60,000. If Tova's figures are similar, it could exceed the budget.

Additionally, both Tova and I feel we needed our travel costs covered given fuel prices for plane travel or gas prices for car travel, not to mention hotels and food. Travel costs would also have to be estimated for any interviews that we do with and for bringing the working group to a central location.

Have you and Tom decided to replace Steve or just to have Tova and I do this?

I hope this helps.

Regards,

Job

Attorney-Client  
Privilege



"Tova Wang" [REDACTED]

09/16/2005 01:46 PM

To "Job Serebrov" [REDACTED], "Karen Lynn  
Dyson" <klynndyson@eac.gov>

cc

bcc

Subject RE: Article

History: This message has been forwarded.

I'm sure it won't surprise you to know that I would want to see an independent analysis before coming to any conclusions. It often turns out --as it did in Washington -- to be bad lists and administrative/poll worker errors that cause the disparities. But I defer judgement.

-----Original Message-----

From: Job Serebrov [mailto:[REDACTED]]  
Sent: Friday, September 16, 2005 12:37 PM  
To: tova Wang; Karen Lynn Dyson  
Subject: Article

I hope you already caught this. We have similar problems in Arkansas.

Job

"Among Voters in New Jersey, G.O.P. Sees Dead People"  
The New York Times offers this report, which begins: "  
The joke has long been that dead people vote in Hudson  
County, New Jersey's legendary enclave of machine  
politics. But now the joke may be on New Jersey,  
according to a new analysis of voter records by the  
state's Republican Party.

Comparing information from county voter registration  
lists, Social Security death records and other public information,  
Republican officials announced on Thursday that 4,755 people who were listed  
as deceased appear to have voted in the 2004 general election. Another 4,397  
people who were registered to vote in more than one county appeared to have  
voted twice, while 6,572 who were registered in New Jersey and in one of  
five other states selected for analysis voted in each state."

028232





"Job Serebrov"

09/16/2005 01:37 PM

To "tova Wang" [REDACTED] "Karen Lynn Dyson"  
<klynndyson@eac.gov>

cc

bcc

Subject Article

History:

✉ This message has been replied to.

I hope you already caught this. We have similar problems in Arkansas.

Job

"Among Voters in New Jersey, G.O.P. Sees Dead People"  
The New York Times offers this report, which begins: "The joke has long been that dead people vote in Hudson County, New Jersey's legendary enclave of machine politics. But now the joke may be on New Jersey, according to a new analysis of voter records by the state's Republican Party.

Comparing information from county voter registration lists, Social Security death records and other public information, Republican officials announced on Thursday that 4,755 people who were listed as deceased appear to have voted in the 2004 general election. Another 4,397 people who were registered to vote in more than one county appeared to have voted twice, while 6,572 who were registered in New Jersey and in one of five other states selected for analysis voted in each state."

028233

Attorney-Client  
Privilege

GMHILLMAN  
Sent by: Gracia Hillman  
10/26/2005 06:29 PM

To "Hans.von.Spakovsky@usdoj.gov"  
<Hans.von.Spakovsky@usdoj.gov>@GSAEXTERNAL  
cc "bkaufman@usdoj.gov"  
"christophert@usdoj.gov"  
<christophert@usdoj.gov>, ddavidson@eac.gov,  
bcc Karen Lynn-Dyson/EAC/GOV

Subject Re: Research Grants - Response

History: This message has been replied to.

Dear Hans:

I am writing in response to your email in which you took exception to our retaining Ms. Tova Wang as a part-time consultant to help EAC explore the issues of voter fraud and voter intimidation. I know that you have heard directly from Vice Chairman DeGregorio and Commissioner Martinez on the matter but I thought it important that I write back to make certain that everyone had the same information.

As you now know, Ms. Wang is only one consultant who is working with us on these issues. When EAC determined that we should explore our options on how to study the issues of voter fraud and voter intimidation, as required under HAVA Section 241 (b), we made a conscious decision to retain consultants who would work part-time for a defined and limited period of time to provide broad and diverse perspectives, across the political spectrum, from right to left and including the middle.

EAC conducted broad outreach to identify a strong pool of consultant candidates. We reached agreement to retain 3 highly qualified people -- Stephen Ansolabehere, Job Serebrov and Tova Wang -- to work with us as we try to determine the scope of any project we might do on these issues.

Unfortunately, Dr. Ansolabehere's teaching assignments unexpectedly precluded him from being able to work as a part-time consultant but he has expressed his desire and in fact has agreed to continue working with us in an unpaid capacity as we explore our options and frame the issues. In the meantime, Mr. Serebrov and Ms. Wang have agreed to provide the consultant services that we sought. We believe that all three individuals will bring great value, careful thought and important perspectives to our work on these issues.

I hope this clarifies this part of EAC's extensive research and study agenda. EAC engages thoughtful deliberation and undertakes careful consideration of all of its activities. We value inclusiveness and know that we are best served when we have broad and diverse perspectives to inform our work. I am happy to talk with you at any time that you might have questions or concerns about our work.

Best Regards,

Gracia M. Hillman  
Chair  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, DC 20005  
Tel: 202-566-3100  
Fax: 202-566-1392  
www.eac.gov

CONFIDENTIALITY NOTICE: This email message is from a federal agency. All attachments, if any, are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended

028234

recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message is strictly prohibited. If you received this message in error, please notify the sender immediately by replying to this message and please delete this message from your computer.

Attorney-Client  
Privilege



Paul DeGregorio/EAC/GOV  
10/25/2005 05:07 PM

To Karen Lynn-Dyson/EAC/GOV  
cc  
bcc  
Subject Fw: Research Grants

History: This message has been replied to.

see e-mail traffic below

----- Forwarded by Paul DeGregorio/EAC/GOV on 10/25/2005 05:07 PM -----



"Hans.von.Spakovsky@usdoj  
.gov"  
<Hans.von.Spakovsky@usdo  
j.gov>  
10/19/2005 09:49 AM

To "pdegregorio@eac.gov" <pdegregorio@eac.gov>  
cc  
Subject RE: Research Grants

perhaps if the Board of Advisors were kept better informed, I would not have been put into this position.

-----Original Message-----

From: pdegregorio@eac.gov [mailto:pdegregorio@eac.gov]  
Sent: Tuesday, October 18, 2005 5:18 PM  
To: von Spakovsky, Hans (CRT)  
Subject: Re: Research Grants  
Importance: High

Hans,

I wish you would have shown us the decency to have spoken to someone at the EAC before you sent this e-mail. Had you done so, you might have discovered that Ms. Wang was paired with Job Serebrov, a conservative attorney who, like you, has served on a local election board (Washington, Co, AK -Fayetteville). He has also worked on voting issues and election law in his practice, including voter fraud. He was counsel to the Arkansas GOP on ballot integrity issues and was the ballot protection specialist for Mike Huckabee in his campaign for Lt. Governor. In addition, Job formed and ran "Arkansans for Fair Elections", a non-partisan group that looked to investigate and prevent voter fraud issues. He headed that group for 8 years. Job served the Republican Party of Arkansas as the Chairman of the Committee for the Revision of the State Constitution.

Thor Hearne called me last week to indicate that Job had called him to be on the working group that Job and Ms. Wang are putting together to look at the voter fraud/voter intimidation issues.

Job was recommended to the EAC for this work by Julie Thompson. His references included two US 8th Circuit judges appointed by GOP presidents: Morris Arnold and Lavenski Smith.

You may recall that the Advisory Board made it clear to the EAC that they thought the Voter Fraud/Voter Intimidation issues should be studied together. That's why Ms. Wang has been paired with Mr. Serebrov to do

028236

this study.

Julie tells me that she had a wide-ranging discussion with you last week but you never brought this issue up. It's too bad, as it may have prevented you from sending an e-mail to so many people that contains only half the story.

Paul DeGregorio  
Vice Chairman  
US Election Assistance Commission  
1225 New York Ave, NW  
Suite 1100  
Washington, DC 20005  
1-866-747-1471 toll-free  
202-566-3100  
202-566-3127 (FAX)  
pdegregorio@eac.gov  
www.eac.gov

"Hans.von.Spakovsky@usdoj.gov" <Hans.von.Spakovsky@usdoj.gov>  
10/18/2005 03:45 PM

To

"gmhillman@eac.gov" <gmhillman@eac.gov>, "rmartinez@eac.gov"  
<rmartinez@eac.gov>, "pdegregorio@eac.gov" <pdegregorio@eac.gov>,  
"eac.gov" <jthompson@eac.gov/twilke>, "ddavison@eac.gov"  
<ddavison@eac.gov>

cc

"christophert@eac.gov" <christophert@eac.gov>,  
"bkaufman@cco" <bkaufman@cco>,  
"dlewis@eac.gov" <dlewis@eac.gov>,  
"tjsthree" <tjsthree>, "wrklinerjr@eac.gov"  
<wrklinerjr@eac.gov>

Subject

Research Grants

Dear Commissioners:

On August 18 I sent you an email raising serious concerns over the awarding of a contract to the Moritz College of Law given its clearly demonstrated pre-existing opinions about provisional balloting and voter identification. Unfortunately, nothing was apparently done about this situation.

I have just learned that a similar situation has occurred. I understand that another research grant has been awarded to Tova Wang for research into "voter fraud and voter intimidation." Ms. Wang has an even more pronounced partisan and one-sided view of these issues than was present in the situation involving Moritz College. She has many posted opinions available on the Internet that make it clear that she will not be able to conduct research in an objective fashion on these issues. Just a few

028237

examples illustrate this:

"It is truly shocking how, given all the problems in the voting system and continued disenfranchisement, the terms of the debate have shifted to that of so-called 'ballot integrity.' It is reminiscent of how conservatives have misappropriated the concept of patriotism and the American flag, and used the power of language and messaging to distort the discussion, by using terms such as 'partial birth abortion' or death tax.'"

"This stands in stark contrast to the entire tenor of the Carter-Baker report, which presumes that fraud committed by voters is the biggest problem confronting our election system. There is simply no strong evidence of this, and some of the remedies proposed will take us backwards in the fight to increase voter participation."

"...voters are individually disenfranchised by continued, often race based, voter intimidation and deceptive practices..."

Carter-Baker Report: Some Bad Fixes for the Wrong Problem, 9/19/2005

"The data is also mounting that identification requirements have disproportionately disenfranchising impacts on certain communities...Given all this piling on of negative evidence, both in terms of the efficacy of ID requirements in fulfilling the goal their advocate's claim and their impact on voting rights, it is somewhat mind boggling that so many state officials, as well as other groups working on this issue, are still vigorously pushing for greater expansion of what seems to be a rather useless yet dangerous tool. Shouldn't the burden of proof now shift to the advocates of more voter ID to demonstrate the value of their cause?"

Voter ID and Fraud: Prove It, 7/28/2005

There are numerous more examples of her partisan opinions and attacks and demonstrably false claims against Republicans and election officials in general, such as her baseless charge in another article that "partisan election officials and party leaders usurped the process and manipulated the new federal voting law in ways that disenfranchised voters." Election 2004: A Report Card, 1/1/2005. The idea that she will write an objective report on issues that she has already expressed such strong opinions on ("there is no evidence that such election fraud is a serious problem") is hard to accept. I find it surprising that the EAC would award her a research grant or expect that election officials around the country would accept as valid a report written by an individual who asserts that "[a]t every step of the way, election officials in key states threw up unnecessary barriers to voting." Id. This gratuitous remark is an insult to the many hard-working election officials that we all know through our work who did everything they could during the last election to improve the election process and in large part succeeded.

Whatever procedures the EAC has set up to screen individuals and entities applying for research grants is obviously not working. I have no doubt that I could today, based on reading Ms. Wang's prior opinions, predict exactly what her report will conclude on the issues of voter fraud and voter intimidation. This situation needs to be corrected so that research is not being conducted by partisan individuals with preset opinions and views on issues. As with my prior email, I strongly recommend that the EAC reconsider the awarding of this contract.

Hans A. von Spakovsky

028238

Counsel to the Assistant Attorney General  
Civil Rights Division - Room 5539  
U.S. Department of Justice  
950 Pennsylvania Avenue  
Washington, D.C. 20530

Telephone (202) 305-9750  
Facsimile (202) 307-2839

028239

Margaret Sims/EAC/GOV  
11/04/2005 05:31 PM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Fw: Phone Message from Tova Wang

Karen:

Do we have any idea what this is about? I have had regular email contact with her during the last few days and don't know of any unresolved issues regarding my work with her. I do know that she and Job were not happy when our lawyers told them that they need to keep records of hours worked and include the total hours worked (not to exceed 20) on their monthly invoices. Job claimed that he and Tova had previously received assurances that they would not have to do what he refers to as "billing for hours worked". Could this be a fishing expedition? --- Peg

Karen Lynn-Dyson/EAC/GOV

Karen Lynn-Dyson/EAC/GOV  
11/04/2005 03:11 PM

To Margaret Sims/EAC/GOV@EAC  
cc  
Subject Fw: Phone Message from Tova Wang

Peg-

I'm happy to call Tova if you'd like me to. Otherwise, don't want to invade your territory.

K

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

----- Forwarded by Karen Lynn-Dyson/EAC/GOV on 11/03/2005 03:09 PM -----

From: Joyce Wilson/EAC/GOV on 11/04/2005 02:26 PM

To: Karen Lynn-Dyson/EAC/GOV@EAC  
cc:

## While You Were Out

Contact:

Tova Wang

of:

Century Foundation

Phone:

FAX:

028240



☒ Telephoned    ☒ Please Call

Message:  
contact applicant? Has a question.

Attorney-Client  
Privilege

Margaret Sims/EAC/GOV  
11/04/2005 05:34 PM

To "Tova Wang" [REDACTED]  
cc  
bcc Karen Lynn-Dyson/EAC/GOV  
Subject RE: Invoices and Payments [REDACTED]

Tova:  
Yes, she has received your EFT fax. All is well. --- Peggy

"Tova Wang" [REDACTED]



"Tova Wang"  
[REDACTED]  
11/04/2005 02:44 PM

To psims@eac.gov  
cc  
Subject RE: Invoices and Payments

Hi Peg,

I'm sorry to bother you with this, but the EAC receptionist will not put me through to Diana and she has not responded to my email. Do you know if she got my EFT fax? Thanks. Tova

-----Original Message-----

**From:** psims@eac.gov [mailto:psims@eac.gov]  
**Sent:** Thursday, November 03, 2005 3:55 PM  
**To:** serebrov@[REDACTED]  
**Subject:** Invoices and Payments

Job and Tova;

The attorneys have advised me that each of you should amend your invoice to indicate the total hours worked (20) during the first month. You should submit a letter ASAP to Diana Scott with that clarification.

I have been told that it takes our agent, the General Services Administration (GSA), two to three weeks to process our requests for payment. I understand that using the electronic funds transfer (EFT) process will reduce the time for payment by up to five days, because it takes additional time for GSA to cut and mail a paper check.

Diana does not have a completed EFT form from either of you, which would permit the electronic transfer of the funds directly to your chosen bank account. I can find no evidence that Karen suggested you should submit the form, so I have attached a blank form below. Please complete it and return it with the invoice amendment to Diana. If you have any questions about how to fill out the EFT form, let me know. I'll do my best to help you out.

I understand that the contract matters are moving forward. I hope to have more news for you on Monday afternoon.

028242

Peggy Sims  
Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave, NW - Ste 1100  
Washington, DC 20005  
Phone: 866-747-1471 (toll free) or 202-566-3120 (direct)  
Fax: 202-566-3127  
email: [psims@eac.gov](mailto:psims@eac.gov)

Juliet E. Thompson/EAC/GOV  
11/15/2005 07:18 PM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
bcc

Attorney-Client  
Privilege

Subject Fw: Question

History: This message has been replied to.

Job asked me the question below. I didn't know how to answer it as I am not sure what the follow up to this work would be other than conducting the research set forth by the RFP that he and Tova will develop. It would seem somewhat self-serving to have the same people do the work that set up the RFP. I assume that any future work will be competitively let.

Let mw know when you have a chance what a reasonable response to this question is.

Juliet E. Thompson  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

----- Forwarded by Juliet E. Thompson/EAC/GOV on 11/15/2005 07:18 PM -----



"Job Serebrov"

11/15/2005 05:02 PM

To jthompson@eac.gov  
cc

Subject Question

Julie:

With everything worked out, this may be too early to ask but I need some idea as soon as possible---everyone mentioned that there may be another six month contract to follow this one. What do you see as the chances of that?

Job

Attorney-Client  
Privilege

Tamar Nedzar/EAC/GOV  
11/21/2005 02:58 PM

To Margaret Sims/EAC/GOV@EAC  
cc Karen Lynn-Dyson/EAC/GOV@EAC  
bcc  
Subject Voter Fraud/Intimidation

Hi Peggy,

Just wondering if you had heard anything from Tova and Job about the terms they want me to search for on Lexis. If they don't get back to you today, just forward anything they send you to this email. I check it at least once a day and can do work from home.

Thanks,

Tamar Nedzar  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
(202) 566-2377  
<http://www.eac.gov>  
[TNedzar@eac.gov](mailto:TNedzar@eac.gov)



Tamar Nedzar/EAC/GOV  
11/30/2005 10:31 AM

To Margaret Sims/EAC/GOV@EAC  
cc Karen Lynn-Dyson/EAC/GOV@EAC  
bcc  
Subject Re: Fw: Updated Word Search List

Attorney-Client  
Privilege

Hi again Peggy,

I just looked at the list, and I have to tell you that I'm a bit concerned. I know of ways to condense searching to encompass many of the terms in one session (example: vote% & fraud would bring up voter fraud, vote fraud, etc.). However, the list is still 9 pages long. I will do my best to start on it tomorrow, but it will take me more than a day to complete it given the other projects I have on my plate. I just want you to be aware that it will take me some time to complete the task given the current parameters.

Talk to you later.  
Tamar Nedzar  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
(202) 566-2377  
<http://www.eac.gov>  
[TNedzar@eac.gov](mailto:TNedzar@eac.gov)

-----Margaret Sims/EAC/GOV wrote: -----

To: Tamar Nedzar/EAC/GOV@EAC  
From: Margaret Sims/EAC/GOV  
Date: 11/30/2005 08:50AM  
Subject: Fw: Updated Word Search List

Tamar:

Here is an updated word search list for the case law/administrative decisions search. I am still trying to confirm the time for the teleconference. As it stands right now, I will probably call you at 3:45 PM today. I should call your home phone (703-528-1863), right?

Peggy Sims  
Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave, NW - Ste 1100  
Washington, DC 20005  
Phone: 866-747-1471 (toll free) or 202-566-3120 (direct)  
Fax: 202-566-3127  
email: [psims@eac.gov](mailto:psims@eac.gov)

----- Forwarded by Margaret Sims/EAC/GOV on 11/30/2005 08:47 AM -----

"Job Serebrov"

11/29/2005 07:07 PM

Towang@[psims@eac.gov](mailto:psims@eac.gov)

cc

028246

SubjectUpdated Word Search List

Peggy & Tova:

Here is the updated case law word search list.

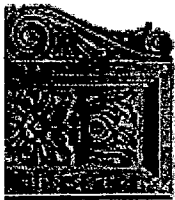
Job



Word Search Terms.doc

028247

**Deliberative Process  
Privilege**



**Bert A. Benavides/EAC/GOV**

02/06/2007 04:37 PM

To Donetta L. Davidson/EAC/GOV, Thomas R.  
Wilkey/EAC/GOV@EAC, PDegregorio@eac.gov  
cc Matthew Masterson/EAC/GOV@EAC, Karen  
Lynn-Dyson/EAC/GOV@EAC

bcc

Subject Fw: Voter ID Presentation --Eagleton/Moritz (testimony,  
O'Neill and Vercellotti)

----- Forwarded by Bert A. Benavides/EAC/GOV on 02/06/2007 04:33 PM -----

"Thomas O'Neill" [REDACTED]

02/06/2007 03:42 PM

To bbenavides@eac.gov

cc

Subject Voter ID Presentation --Eagleton/Moritz

Bert,

Attached is the text of the presentation that Tim Vercellotti and I will make to the EAC on Thursday, February 8. Thanks for your help in making arrangements for this meeting. Please let me know if you need anything else from us in advance of the meeting.

See you Thursday.

Tom O'Neill



VIDPresentation020807.doc

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**Presentation to the  
U. S. Election Assistance Commission  
February 8, 2007**

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Summarizing a report on  
Best Practices to Improve Voter Identification Requirements  
Pursuant to the  
HELP AMERICA VOTE ACT OF 2002  
Public Law 107-252  
Submitted on June 28, 2006

by  
The Eagleton Institute of Politics, Rutgers, The State University of New Jersey  
The Moritz College of Law, The Ohio State University

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## Introduction

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Our report, submitted to the EAC last June, provided information on voter identification practices in the 2004 election. It made recommendations for best practices to evaluate future proposals for voter ID requirements. In particular, we recommended a concerted, systematic effort to collect and evaluate information on voter ID requirements and turnout from the states. This report was a companion to our report on Provisional Voting, submitted to the EAC in November 2005.

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The research was conducted by the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at the Ohio State University under a contract with the EAC, dated May 24, 2005. Unfortunately, our colleagues from Moritz could not be with us today because of teaching obligations.

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Our work included a review and legal analysis of state statutes, regulations and litigation concerning voter identification and provisional voting as well as a statistical analysis of the relationship of various requirements for voter identification to turnout in the 2004 election.

Voter ID requirements are just one set of election rules that may affect turnout. Social scientists have long studied how election rules affect participation in elections. The general view today is that the individual citizen chooses whether to vote by comparing costs and benefits. The benefits of voting are fairly stable—and hard to specify given the remote probability that any one vote will make a difference in an election. But whatever the benefit may be, as the costs of voting (for example, time, hassle, acquisition of information) increase, the likelihood that a citizen will vote decreases.

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We conducted our research before last year's election, when the debate over voter ID requirements was sharp and polarized. We took seriously our charge from the EAC, which was not to enter the national debate, but rather to explore if an empirical study could suggest how we might estimate the effects of different voter ID requirements on turnout. That analysis, of course, would be a sensible first step to assess tradeoffs between ballot security and ballot access and provide valuable information for all parties to the debate.

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A voting system that requires voters to produce an identity document or documents may prevent the ineligible from voting. It may also prevent eligible voters from casting a ballot. If the ID requirement of a ballot protection system blocks ineligible voters from the polls at the cost of preventing eligible voters who lack the required forms of identification, the net integrity of the ballot may not have been improved.

A key part of our work was a statistical analysis to examine how turnout may vary under different voter identification requirements. We used this statistical study to develop a model to illuminate the relationships between voter ID requirements and turnout. The model's findings and limitations suggest avenues for further research and analysis that may assist the EAC and the states as they explore policies to balance the goals of ballot integrity and ballot access.

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Tim Vercellotti led that phase of our research and will describe his methods and conclusions.

## Results of Statistical Analysis

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Our research included an examination of variation in turnout based on voter ID requirements in the 50 states and the District of Columbia. We examined this question using aggregate data at

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the county level gathered from the U.S. Census and other sources, and individual-level data from the November 2004 Current Population Survey.

Drawing from the research conducted by the Moritz College of Law, we were able to classify the states into one of five voter ID categories. Voters either had to:

1. state their name,
2. sign their name,
3. match their signatures to those already on file,
4. provide a non-photo ID,
5. provide a photo ID.

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But election laws in numerous states offer exceptions to these requirements if individuals lack the necessary form of identification, and laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). Thus it is also possible to categorize states based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity. The five categories for minimum requirements were:

1. stating one's name,
2. signing one's name,
3. matching one's signature to a signature on file,
4. providing a non-photo identification, or
5. swearing an affidavit.

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Analysis of the aggregate data showed that the average turnout in states requiring photo identification as a maximum requirement was 58.1 percent compared to 64.2 percent in states that required voters to give their name as the maximum requirement. The differences were slightly smaller when we examined states in terms of their minimum requirements, with 60.1 percent of voters turning out in states that required an affidavit compared to 63 percent in states that required voters to give their name as the minimum requirement.

The analyses of aggregate data also included models that controlled for other factors that might influence turnout, such as whether a county was in a presidential battleground state, the length of time between the close of the registration period and Election Day, and the demographic composition of the county in terms of race and ethnicity, age, and household income. Controlling for those factors, the maximum requirements of providing a signature match or a non-photo identification showed a negative effect on voter turnout when compared to counties in states that only required voters to give their names. None of the voter identification requirements showed an effect on turnout, however, in the model that coded counties according to the states' minimum requirements.

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Analyses of the individual-level data from the November 2004 Current Population Survey also indicated relationships between voter ID requirements and turnout. Controlling for contextual factors, such as whether a voter resided in a presidential battleground state, and demographic characteristics, such as a voter's gender, race, ethnicity, age, and education, the data showed that registered voters in states that require photo identification as a maximum requirement were 2.9 percent less likely to say they had voted compared to registered voters in states that required voters to state their names. Examining states within the context of minimum identification requirements showed that registered voters in states requiring affidavits were four

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percent less likely to say they had voted compared to registered voters in states that required individuals to give their names at the polling place.

Breaking down the Current Population Survey sample by race and ethnicity also revealed interesting patterns. Photo identification and affidavit requirements were negatively associated with whether white registered voters said they voted compared to their counterparts in states requiring registered voters to give their names. But African-American, Hispanic, and Asian-American registered voters in states that required photo identification as the maximum requirement or an affidavit as the minimum requirement were no less likely to say they had voted than their racial or ethnic counterparts in states that simply required voters to give their names.

The most consistent difference emerged in states that required non-photo identification as a maximum or a minimum requirement. In five of six statistical models, African-American, Hispanic, and Asian-American registered voters in non-photo identification states were less likely to say they had voted in November 2004 than their racial or ethnic counterparts in states that required voters to state their names as a maximum or minimum identification requirement.

That the non-photo identification requirement was the most consistent in terms of statistical significance across the groups is intriguing given the intense debates surrounding photo identification requirements. This observation does not answer the question as to why photo identification requirements did not have a more uniform effect across groups in 2004. Of course, photo identification was a maximum requirement in only five states, and each of those states accepted another type of identification as a minimum requirement. But the finding that photo identification requirements were associated with a lower probability that white registered voters said they had voted, and the absence of a similar relationship within other racial and ethnic groups, runs counter to concerns expressed by some in the debate over voter ID. This finding points up the need for further research in this area, perhaps with a view to comparing turnout rates over time before and after a photo identification requirement takes effect, to further isolate potential relationships between photo ID requirements and turnout.

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In examining the link between voter identification requirements and turnout, there is still much to learn. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If these requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer this question. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements.

#### Conclusions from the Research

The statistical analysis suggests that stricter voter ID requirements can be associated with lower turnout. It was not designed, however, to look at the other side of the balance equation: do tighter ID requirements reduce multiple voting or voting by ineligible voters? The scope of our research as defined by the EAC excluded assessing the dynamics and incidence of vote fraud.

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We believe, however, that sound policy on voter ID should begin with an examination of the tradeoffs between ballot security and ballot access.

The existing evidence on the incidence of vote fraud, especially on the kind of vote fraud that could be reduced by requiring more rigorous voter identification, is not sufficient to evaluate those tradeoffs. The EAC's recent study<sup>1</sup> of election crimes found, for example, that there has never been a comprehensive, nationwide study of voting fraud and intimidation.

Without a better understanding of the incidence of vote fraud and its relationship to voter ID, for now, best practice for the states may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility. Election law should provide the clarity and certainty needed to forestall destabilizing challenges to election outcomes. Absent a sound, empirical basis for striking a wise balance between voter ID and ballot access, legal challenges may increase, not just to the process but to electoral outcomes.

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The analysis of litigation conducted by the Moritz College of Law for our research suggests that the courts will look more strictly at requirements that voters produce a photo ID in order to cast a regular ballot, than at non-photo ID laws. The courts have used a balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting Social Security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents.

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To strike that balance requires a more precise understanding of how voter ID requirements affect turnout. A first step in that direction would be to encourage or require states to collect and report additional data, including:

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- The reasons potential voters are required to cast a provisional ballot and
- The reasons for rejecting provisional ballots.

#### Recommendations for consideration and action by the EAC

1. Encourage or sponsor further research to clarify the connection between voter ID requirements and the number of potential voters able to cast a ballot that is counted.
2. Recommend as a best practice the publication of a "Voting Impact Statement" by states as they assess their voter ID requirements. The analysis will help focus the attention of the public and policy-makers on the tradeoff between ballot access and ballot security. A "Voter Impact Statement," to be drafted and offered for public review and comment before the adoption of new identity requirements, would estimate the number and demographics of:
  - Eligible, potential voters who may be kept from the polls or permitted to cast a provisional ballot by a stricter ID requirement; and
  - Assess the number of ineligible voters who will be prevented from voting by the stricter ID requirements.

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The data collection and analysis recommended in this report would help make feasible an empirically-based assessment of the effects on voter participation of proposed identification requirements. That assessment could improve the quality of the debate on this polarizing topic.

<sup>1</sup> U. S. Election Assistance Commission, *Election Crimes: An Initial Review and Recommendations for Future Study*, December 2006.

3. Encourage or require the states to collect and report reliable, credible information on the relationship between ballot access and ballot security. A compilation by EAC of this information would provide a factual basis for the states to consider as they estimate the incidence of the kinds of vote fraud that more stringent ID requirements may prevent. The studies should include precinct-level data to provide the fine-grained analysis that can provide a solid foundation for policy.
4. Encourage or require states to sponsor surveys of voters to be conducted by local election officials. Such surveys would determine why those who cast a provisional ballot were found ineligible to cast a regular ballot and illuminate the frequency with which ID issues divert voters into the provisional ballot line. The connection between Voter ID requirements and provisional ballots is, of course, close. Voters who lack required ID will likely vote provisionally, thus placing greater demands on a system that may be hard pressed to meet those demands. Asking voters what they know about ID requirements would also provide useful context for evaluating the effect of those requirements on electoral participation.<sup>2</sup>
5. Recommend as a best practice that state election officials conduct spot checks on how the identification process actually works at polling places. These spot checks could provide information on how closely actual practice tracks statutory or regulatory requirements.
6. Encourage states to examine the time period allowed for voters who cast a provisional ballot because they lacked required ID to return with their identification. In 11 states, voters who had to cast a provisional ballot because they lacked the ID required for a regular ballot were permitted to return later with their ID. Their provision of this ID is the critical step in evaluating the ballots. The length of the period in which the voter may return with ID is important. In setting the time period for return, which now varies among the states from the same day to about two weeks, states should consider three factors: the convenience of the voter, the total time allowed to evaluate ballots, and the safe harbor provision in presidential elections.

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#### A final thought

A voting system that requires voters to produce an ID may prevent the ineligible from voting. It may also prevent some eligible voters from casting a ballot. If the ID requirements block a few ineligible voters from the polls at the cost of preventing an equal or greater number of eligible voters who cannot obtain or have left at home the required forms of identification, the integrity of the ballot may not have been improved; the harm may be as great as the benefit.

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Ultimately, a normative evaluation of whether a state should adopt a stricter voter ID requirement (and what form that requirement should take) will weigh value judgments as well as available factual evidence. We did our work on the premise that increased understanding of the facts relating to the imposition of voter ID requirements, based on available data and statistical analysis of that data, can help inform the policy process.

<sup>2</sup> Arizona held its first election with its new, stricter ID requirements on March 14, 2006. In at least one county (Maricopa) election officials handed a survey to voters that asked if they knew about the voter identification law and if they did, how they found out about it.

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We hope that premise is realistic, and we also hope that this research has helped the Commissioners and the interested public to clarify their thinking on this polarizing topic.

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On behalf of the Eagleton – Moritz research team, we thank you for the opportunity to contribute to the national debate.

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Thomas R. Wilkey/EAC/GOV

02/07/2007 11:15 AM

To Paul DeGregorio/EAC/GOV@EAC

cc

bcc

Subject Re: My Niece 

Thanks my friend...she was my favorite and I was so proud of her...she struggled to get through Nursing School and had so many difficulties in her life.

I appreciate your support and your friendship...life hasn't been good to me lately so your. Friendship means even more.

Give Eagleton a hard time for me tomorrow

Thanks again

Tom

-----  
Sent from my BlackBerry Wireless Handheld

Paul DeGregorio

----- Original Message -----

**From:** Paul DeGregorio

**Sent:** 02/07/2007 11:16 AM

**To:** Thomas Wilkey

**Subject:** Re: My Niece

Tom,

I am so sorry to hear of the passing of your niece and my sincere sympathies go out to you and your family. I hope you take off whatever time you may need.

Paul DeGregorio

Commissioner

US Election Assistance Commission

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202-566-3100

202-566-3127 (FAX)

pdegregorio@eac.gov

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U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 27, 2000

The Honorable John Linder  
Chairman, Subcommittee on Rules and  
Organization of the House  
Committee on Rules  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

We have carefully reviewed the testimony presented to the Subcommittee on Rules and Organization of the House at its hearing on July 15, 1999, on "Cooperation, Comity, and Confrontation: Congressional Oversight of the Executive Branch." The Department of Justice appreciates the Subcommittee's interest in this area, and we would like to take this opportunity to present in this letter, for the benefit of both Members of Congress and the public at large, the approach we take to the issues raised at the hearing. As always, we are committed to cooperating with your Subcommittee, and all committees of Congress, with respect to the oversight process.

The testimony presented at the hearing suggests to us that there is a need for improved communication and sensitivity between the Executive and Legislative Branches regarding our respective institutional needs and interests. It also suggests that there is considerable misunderstanding about the principles that govern the Department's longstanding positions and practices on responding to congressional oversight requests. We hope that this discussion of those governing principles will be helpful to the Committee and foster an improved understanding of the Department's interests in responding to oversight requests.

#### General Approach

The oversight process is, of course, an important underpinning of the legislative process. Congressional committees need to gather information about how statutes are applied and funds are spent so that they can assess whether additional legislation is necessary either to rectify practical problems in current law or to address problems not covered by current law. By helping Congress be better informed when it makes legislative decisions, oversight promotes the accountability of government. The information that committees gather in this oversight capacity is also important for the Executive Branch in the future implementation of the law and its participation in the legislative process. We have found that the oversight process can shed

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valuable light on Department operations and assist our leadership in addressing problems that might not otherwise have been clear.

President Reagan's November 4, 1982 Memorandum for the Heads of Executive Departments and Agencies on "Procedures Governing Responses to Congressional Requests for Information" sets forth the longstanding Executive Branch policy on cooperating with Congressional oversight:

The policy of this Administration is to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch . . . [E]xecutive privilege will be asserted only in the most compelling circumstances, and only after careful review demonstrates that assertion of the privilege is necessary. Historically, good faith negotiations between Congress and the Executive Branch have minimized the need for invoking executive privilege, and this tradition of accommodation should continue as the primary means of resolving conflicts between the Branches.

The D.C. Circuit Court of Appeals has recognized the obligations of Congress and the Executive Branch to seek to accommodate the legitimate needs of the other:

The framers . . . expect[ed] that where conflicts in scope of authority arose between the coordinate branches, a spirit of dynamic compromise would promote resolution of the dispute in the manner most likely to result in efficient and effective functioning of our governmental system. Under this view, the coordinate branches do not exist in an exclusively adversary relationship to one another when a conflict in authority arises. Rather, each branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation.

United States v. American Tel. & Tel. Co., 567 F.2d 121, 127 (D.C. Cir. 1977). Attorney General William French Smith captured the essence of the accommodation process in a 1981 opinion: "The accommodation required is not simply an exchange of concessions or a test of political strength. It is an obligation of each branch to make a principled effort to acknowledge, and if possible to meet, the legitimate needs of the other branch." Opinion of the Attorney General for the President, Assertion of Executive Privilege in Response to a Congressional Subpoena, 5 Op. O.L.C. 27, 31 (1981).

In implementing the longstanding policy of the Executive Branch to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch, the Department's goal in all cases is to satisfy legitimate legislative interests while protecting Executive Branch confidentiality interests. Examples of confidential information include national security information, materials that are

protected by law (such as grand jury information pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure and taxpayer information pursuant to 26 U.S.C. § 6103); information the disclosure of which might compromise open criminal investigations or prosecutions or civil cases or constitute an unwarranted invasion of personal privacy; and predecisional deliberative communications (such as internal advice and preliminary positions and recommendations).

We believe that it must be the Department's efforts to safeguard these important Executive Branch institutional interests that have led to the frustrations expressed during the Subcommittee's hearing. We hope that we can reduce those frustrations in the future by setting forth here our perspective on some of the more important institutional interests that are implicated during the course of Congressional oversight.

### Open Matters

Much of the testimony at the hearing addressed oversight of ongoing Department investigations and litigation. Although Congress has a clearly legitimate interest in determining how the Department enforces statutes, Congressional inquiries during the pendency of a matter pose an inherent threat to the integrity of the Department's law enforcement and litigation functions. Such inquiries inescapably create the risk that the public and the courts will perceive undue political and Congressional influence over law enforcement and litigation decisions. Such inquiries also often seek records and other information that our responsibilities for these matters preclude us from disclosing. Consequently, we have sought whenever possible to provide information about closed, rather than open, matters. This enables Congress to analyze and evaluate how statutory programs are handled and the Department conducts its business, while avoiding the potential interference that inquiries into open matters entail.

The open matters concern is especially significant with respect to ongoing law enforcement investigations. The Department's longstanding policy is to decline to provide Congressional committees with access to open law enforcement files. Almost 60 years ago, Attorney General Robert H. Jackson informed Congress that:

It is the position of the Department, restated now with the approval of and at the direction of the President, that all investigative reports are confidential documents of the executive department of the Government, to aid in the duty laid upon the President by the Constitution to "take care that the Laws be faithfully executed," and that congressional or public access to them would not be in the public interest . . . .

40 Op. Att'y. Gen. 45, 46 (1941). Attorney General Jackson's position was not new. His letter cited prior Attorney General letters taking the same position dating back to the beginning of the 20th century (*id.* at 47-48).

The rationale for this policy is set forth in a published opinion of the Office of Legal Counsel issued by Charles J. Cooper, Assistant Attorney General for the Office of Legal Counsel

during part of the Reagan Administration. See Response to Congressional Requests for Information Regarding Decisions made Under the Independent Counsel Act, 10 Op. O.L.C. 68, 76-77 (1986). Mr. Cooper noted that providing a Congressional committee with confidential information about active criminal investigations would place the Congress in a position to exert pressure or attempt to influence the prosecution of criminal cases. Id. at 76. Congress would become, "in a sense, a partner in the investigation," id., and could thereby attempt to second-guess tactical and strategic decisions, question witness interview schedules, debate conflicting internal recommendations, and generally attempt to influence the outcome of the criminal investigation. Such a practice would significantly damage law enforcement efforts and shake public and judicial confidence in the criminal justice system. Id. at 76-77.

Decisions about the course of an investigation must be made without reference to political considerations. As one Justice Department official noted 30 years ago, "the Executive cannot effectively investigate if Congress is, in a sense, a partner in the investigation. If a congressional committee is fully apprised of all details of an investigation as the investigation proceeds, there is a substantial danger that congressional pressures will influence the course of the investigation." Memorandum for Edward L. Morgan, Deputy Counsel to the President, from Thomas E. Kauper, Deputy Assistant Attorney General, Office of Legal Counsel, Re: Submission of Open CID Investigation Files 2 (Dec. 19, 1969).

In addition to the problem of Congressional pressure and the appearance of such pressure, the disclosure of documents from our open files could also provide a "road map" of the Department's ongoing investigations. The documents, or information that they contain, could come into the possession of the targets of the investigation through inadvertence or a deliberate act on the part of someone having access to them. The investigation would be seriously prejudiced by the revelation of the direction of the investigation, information about the evidence that the prosecutors have obtained, and assessments of the strengths and weaknesses of various aspects of the investigation. As Attorney General Jackson observed:

Disclosure of the [law enforcement] reports could not do otherwise than seriously prejudice law enforcement. Counsel for a defendant or a prospective defendant, could have no greater help than to know how much or how little information the Government has, and what witnesses or sources of information it can rely upon. This is exactly what these reports are intended to contain.

40 Op. Atty. Gen. at 46. The Department has similar interests in the confidentiality of internal documents relating to its representation of the United States in civil litigation. Our litigation files usually contain confidential correspondence with client agencies as well as the work product of our attorneys in suits that frequently seek millions of tax dollars. They also contain "road maps" of our litigation plans and preparations, as well as confidential reports from experts and consultants. Those plans could be seriously jeopardized and our positions in litigation compromised if we are obliged to disclose our internal deliberations including, but not limited to,

our assessments of the strengths and weaknesses of evidence or the law, before they are presented in court. That may result in an unfair advantage to those who seek public funds and deprive the taxpayers of confidential representation enjoyed by other litigants.

In addition, the reputations of individuals mentioned in internal law enforcement and litigation documents could be severely damaged by the public release of information about them, even though the case might ultimately not warrant prosecution or other legal action. The Department takes very seriously its responsibility to respect the privacy interests of individuals about whom information is developed during the law enforcement process or litigation.

### **Internal Department Deliberations**

With respect to oversight on closed matters, the Department has a broad confidentiality interest in materials that reflect its internal deliberative process. In particular, we have sought to ensure that all law enforcement and litigation decisions are products of open, frank and independent assessments of the pertinent law and facts -- uninhibited by political and improper influences that may be present outside the Department. We have long been concerned about the chilling effect that would ripple throughout government if prosecutors, policy advisors at all levels and line attorneys believed that their honest opinion -- be it "good" or "bad" -- may be the topic of debate in Congressional hearings or floor debates. These include assessments of evidence and law, candid advice on strengths and weaknesses of legal arguments, and recommendations to take or not to take legal action against individuals and corporate entities.

The Department must seek to protect this give-and-take process so that the participants in the process can vigorously debate issues before them and remain able to provide decisionmakers with complete and honest counsel regarding the conduct of the Department's business. If each participant's contribution can be dissected by Congress in a public forum, then the free and candid flow of ideas and recommendations would certainly be jeopardized. The Supreme Court has recognized the legitimacy of this "chilling effect" concern: "Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process." United States v. Nixon, 418 U.S. 683, 705 (1974). Our experience indicates that the Department can develop accommodations with Congressional committees that satisfy their needs for information that may be contained in deliberative material while at the same time protecting the Department's interest in avoiding a chill on the candor of future deliberations.

The foregoing concerns apply with special force to Congressional requests for prosecution and declination memoranda and similar documents. These are extremely sensitive law enforcement materials. The Department's attorneys are asked to render unbiased, professional judgments about the merits of potential criminal and civil law enforcement cases. If their deliberative documents were made subject to Congressional challenge and scrutiny, we would face a grave danger that they would be chilled from providing the candid and independent analysis essential to just and effective law enforcement or, just as troubling, that

they might err on the side of prosecution simply to avoid public second-guessing. This in turn would undermine public and judicial confidence in our law enforcement processes, untoward consequences we are confident that Congress, like the Department, wishes to avoid.

### Privacy

In addition to these concerns, disclosure of declination memoranda would implicate significant individual privacy interests as well. Such documents discuss the possibility of bringing charges against individuals who are investigated but not prosecuted, and often contain unflattering personal information as well as assessments of witness credibility and legal positions. The disclosure of the contents of these documents could be devastating to the individuals they discuss. We try to accommodate Congressional needs for information about declinations whenever possible by making appropriate Department officials available to brief Committee Members and staff. This affords us an opportunity to answer their questions, which can be helpful because it can include the context and process that accompanied the decision. Hence, the discussion with staff may provide useful information and minimize the intrusion on individual privacy and the chill on our attorneys' preparation of future deliberative documents.

### Line Attorneys

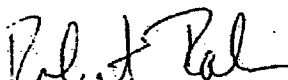
The Department also has a strong institutional interest in ensuring that appropriate supervisory personnel, rather than line attorneys and agents, answer Congressional questions about Department actions. This is based in part upon our view that supervisory personnel, not line employees, make the decisions that are the subjects of congressional review, and therefore they should be the ones to explain the decisions. More fundamentally, however, we need to ensure that our attorneys and agents can exercise the independent judgment essential to the integrity of law enforcement and litigation functions and to public confidence in those decisions. Senator Orrin Hatch has recognized the legitimacy of the Department's practice in this area, observing that Congressional examination of line attorneys "could chill career Department of Justice lawyers in the exercise of their daily duties." See Letter to Attorney General Janet Reno from Senator Orrin Hatch, dated September 21, 1993. Representative Henry Hyde has likewise opposed Congressional interviews of line prosecutors. See Letter of Representative Hyde to Representative Carlos Moorhead, dated September 7, 1993. By questioning supervisors and ultimately the Department's Senate-confirmed leadership, Congress can fulfill its oversight responsibilities without undermining the independence of line attorneys and agents.

\* \* \*

In sum, the Department recognizes that the process of Congressional oversight is an important part of our system of government. We are committed to cooperating with oversight requests to the fullest extent consistent with our constitutional and statutory responsibilities.

We welcome your suggestions about how we should work together to accommodate the needs of our respective branches of government. Please do not hesitate to contact me if you would like to discuss these matters further. I intend at all times to work diligently with you toward satisfying the respective needs of our coordinate branches.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert Raben", written in a cursive style.

Robert Raben

Assistant Attorney General

cc: The Honorable Tony Hall  
Ranking Minority Member

Attorney-Client  
Privilege

Tamar Nedzar/EAC/GOV  
12/05/2005 10:24 AM

To "Tova Wang" [REDACTED]  
cc Margaret Sims/EAC/GOV@EAC  
bcc Karen Lynn-Dyson/EAC/GOV  
Subject RE: Search Results Example [REDACTED]

Tova and Job,

Thank you for your feedback. There are two factors that went into my decision to perform the search in the manner I indicated which may have a bearing on whether you want me to do each search individually.

First, I checked with the Lexis representative at my school, who suggested the search methodology I used. She indicated that I would get the same results if I did the searches separately or together.

Second, as I am in the midst of finals, as you can imagine, I have limited time to devote to work. I will only be in the office two days in the next two weeks and will not be able to do much work from home. As a result, I probably won't be able to do the majority of the searches until just after Christmas if I am to do the each term separately. If not, I should be able to get you results by the week before Christmas.

I will do whatever you and Peggy decide given your timelines, but wanted to let you know the factors that went into my decision.

Thank you,

Tamar Nedzar  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
(202) 566-2377  
<http://www.eac.gov>  
[TNedzar@eac.gov](mailto:TNedzar@eac.gov)  
"Tova Wang" [REDACTED]



"Tova Wang"  
[REDACTED]  
12/02/2005 05:22 PM

To tnedzar@eac.gov  
cc "Job Serebrov" [REDACTED]  
Subject RE: Search Results Example

And thank you for your work on this. Let us know if you have any questions.

-----Original Message-----

From: Job Serebrov [mailto:[REDACTED]]  
Sent: Friday, December 02, 2005 5:19 PM  
To: tnedzar@eac.gov  
Cc: wang [REDACTED]  
Subject: Re: Search Results Example

Tamar:

028264



You are not going to be able to place all of these word searches together. We need you to take each term on the list and do a search on it. You can only merge terms when it will not add other terms and therefore affect the outcome. For instance, vote and voter could probable be merged. I know this creates much much more work but it can't be helped. I would like you to pull the first 50 cases for each set of terms and send them to us with a short case summary (I know Westlaw lets you do a short case summary). From there we will have to read the cases and decide if we need any others in that search term.

Regards,

Job

--- tnedzar@eac.gov wrote:

-----  
Tova and Job,

It was good to talk to you today. Hope you are doing well. I've attached my African American search results below. It encompasses all of the terms you suggested having to do with African Americans.

The following is a search I used to truncate words and combine terms, but I still got a large number of results:

Vot! and deny and black or vot! and black and challenge or vot! and black and reject or vot! and black or vot! And deny and African w/s American or vot! And African w/s American and reject or challenge or vot! And African w/s American or election and black and deny or challenge or reject or election and black or election and African w/s American and deny or challenge or reject or election and African w/s American or ballot and security and black or ballot and security and African w/s American or black and vot! And suppress! Or African w/s American and vot! And suppress or African w/s and disenfranchis! or black and disenfranchis!

If this search yields useful cases for you, I can continue searching using the same strategy. If not, please provide me with additional guidelines and I will do my best!

Please feel free to contact me should you have any questions or need additional information.  
Thank you,

Tamar Nedzar  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005

028265

(202) 566-2377  
<http://www.eac.gov>  
TNedzar@eac.gov

Juliet E.  
Thompson-Hodgkins/EAC/G  
OV

08/17/2006 12:54 PM

To jlayson@eac.gov

cc

bcc

Subject Talking points question from Cameron

She wanted to know if we have put together any talking points on Voter ID

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

028267

Jeannie Layson /EAC/GOV  
09/19/2006 11:17 AM

To pdegregorio@eac.gov  
cc asherrill@eac.gov  
bcc  
Subject Interview Requests for Tomorrow

Mr. Chairman,  
Two more interview requests for tomorrow:

1. NPR's News and Notes would like to have you as a guest on their program tomorrow morning at 8 a.m. EST for five to eight minutes. Topic: Your thoughts on the states that are cracking down on voter fraud through voter ID laws, registration policies, etc. Also, they want your take on the Fed. Election Integrity Act, the bill sponsored by Hyde regarding voter ID which will be dropped this week. The interview would be taped, and it would run at 9 a.m. EST. News and Notes explores issues that impact the African American community. You will be interviewed by Farai Chideya (Fah-rah Chu-day-ah). Go here <http://www.npr.org/templates/story/story.php?storyId=11> to read more about the program and the host. You are to call 310-815-4302 from a land line. Backup: Producer Devin Robbins at 310-815-4379.

2. Mary Ann McGee of Information Week is working on a story about voting system security. I talked to her about our efforts to help election officials focus on the entire process, not just the voting machine. I sent her the Quick Start guide. She's interested in hearing more about this from you. This is a good opportunity to get the message out that the real challenges we face in Nov. are having enough people and making sure they are properly trained. She wants to talk to you at 10:30 am EST. You are to call her at 508-697-0083.

Please let me know if you will be able to accomodate these reporters, and I'll take it from there. Thank you.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

028268

Bryan Whitener /EAC/GOV

09/20/2006 04:57 PM

To Jeannie Layson/EAC/GOV@EAC

cc

bcc

Subject update - Huma Zaidi, NBC News

History:

This message has been replied to.

Huma asked if testimony will include updates on the progress/status of current voter info websites and overseas voting programs and if we will discuss voter ID requirements.

I said it may be that voter ID requirements are discussed simply in terms of the overall content of the voter information websites. I distinguished between the morning panels on voter information websites and the afternoon panel on military and overseas voting. She asked what EAC can or will do regarding military and overseas voting before the election. I said EAC will hear testimony about the status, best practices and issues associated with UOCAVA voters and share the information with the public and election officials so they are better informed to help meet the challenge. In particular, I said Scott Wiedmann would provide information on new approaches by FVAP. I said that EAC has been working with state and local officials and experts to fine-tune the UOCAVA survey instrument and that Thursday's meeting comes two years to the day after EAC released the Best Practices UOCAVA report.

Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV

09/20/2006 03:35 PM

To Bryan Whitener/EAC/GOV@EAC

cc

Subject Re: Request from Huma Zaid, NBC News

Send her the news release, embargoed. Read thru testimony and give her more details about what participants will say.

Sent from my BlackBerry Wireless Handheld

Bryan Whitener

----- Original Message -----

**From:** Bryan Whitener

**Sent:** 09/20/2006 03:03 PM

**To:** Jeannie Layson

**Subject:** Request from Huma Zaid, NBC News

Huma Zaid, NBC News researcher asked "is there any information you can send me in advance pertaining to the discussions that are on the agenda? I'd like to include a brief preview of the event for MSNBC.com tomorrow morning." I pointed out the link to the agenda. If they approve the news release, I could send an embargo copy, right? Is it too much to send her any testimony or do we have to wait?

028269

Karen Lynn-Dyson/EAC/GOV

09/25/2006 12:20 PM

To twilkey@eac.gov, Juliet E. Hodgkins/EAC/GOV@EAC

cc Sheila A. Banks/EAC/GOV@EAC

bcc Jeannie Layson/EAC/GOV

Subject Distribution of Voter ID Report Appendices to Tom Hicks

Commissioner Hillman has asked a follow-up question regarding the sharing of EAC's information, on the Eagleton study on Voter ID requirements, with Tom Hicks.

I have given Sheila the following appendices for possible distribution to Tom Hicks:

1. Summary of Voter ID Requirements by State
2. Court Decisions and Literature on Voter Identification and Related Issues Court decisions
3. Annotated bibliography on Voter Identification Issues

I have **not** given Sheila, for distribution, these Appendices or parts of the report:

1. Analysis of Effects of Voter ID Requirements on Turnout
2. The Executive Summary and Recommendations
3. Summary of Research
4. State Statutes and Regulations Affecting Voter Identification (electronic version only)


**\*\*You'll also recall that I 'm awaiting Tom 's approval to send to Mike McDonald , various appendices from the Eagleton Provisional Voting report**

Thanks

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

028270

Jeannie Layson /EAC/GOV  
09/27/2006 10:02 AM

To Karen Lynn-Dyson/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC, Thomas R.  
Wilkey/EAC/GOV@EAC  
cc "Jeannie Layson" <jlayson@eac.gov>  
bcc  
Subject Re: Dan Tokaji's Blog 

Yes, this is a big deal right now. Both sides looking for research to support their assertions.

-----  
Sent from my BlackBerry Wireless Handheld  
Karen Lynn-Dyson  
----- Original Message -----

**From:** Karen Lynn-Dyson  
**Sent:** 09/27/2006 10:03 AM  
**To:** Juliet Hodgkins; Thomas Wilkey  
**Cc:** Jeannie Layson  
**Subject:** Fw: Dan Tokaji's Blog

FYI-

Since this voter ID analysis ( linking voter ID to depressed turnout) is now public and attributed to a contract the EAC let, I think this significantly influences what we may want to write and say in a final report.

K

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

----- Forwarded by Karen Lynn-Dyson/EAC/GOV on 09/27/2006 09:55 AM -----


Bryan Whitener /EAC/GOV  
09/27/2006 09:55 AM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
Subject Dan Tokaji's Blog

**Dan Tokaji's Blog**  
<http://moritzlaw.osu.edu/blogs/tokaji/index.html>

028271

Karen Lynn-Dyson/EAC/GOV  
10/03/2006 10:16 AM

To Jeannie Layson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: 

Last week Tom Hicks was given all of the report appendices except the statistical analysis, and the Eagleton summary report. Takaji's blog contains everything except the Eagleton summary report.

So, as near as I can determine everything except the Eagleton report on "Best Practices to Improve Voter Identification Requirements" and, of course, our report on voter ID, is out there.


I can tell Alvarez that while EAC has yet to release a statement or its findings on Voter ID, the material contained in Tokaji's blog should be used.

K

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

Jeannie Layson/EAC/GOV

Jeannie Layson /EAC/GOV  
10/03/2006 10:05 AM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc  
Subject Re: 

How can I answer that? What is the status of the project?

-----  
Sent from my BlackBerry Wireless Handheld

Karen Lynn-Dyson

----- Original Message -----

**From:** Karen Lynn-Dyson  
**Sent:** 10/03/2006 10:05 AM  
**To:** "Mike Alvarez" <rma@hss.caltech.edu>@GSAEXTERNAL  
**Cc:** Jeannie Layson  
**Subject:** Re:

Hi Mike-

Indeed, Eagleton has been sharing portions of the findings in various settings, and you may have noted it referenced on Dan Tokaji's blog.

I've asked our Communications Director, Jeannie Layson, to get you with a definitive answer to your

028272



question.

Hope the conference is productive.

Regards-

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

"Mike Alvarez" [REDACTED]



"Mike Alvarez"

10/02/2006 10:44 PM

To klynndyson@eac.gov

cc

Subject

Hi -- hope all is well.

I've got a quick question for you. Vercellotti and Anderson have put out for public distribution what looks to be their work from their EAC report on voter identification (<http://www.eac.gov/Research/Research.htm>).

Given that this piece of their research project is available, is the rest of their work available for public distribution yet (as you know the VTP is having a conference at the end of this week on voter identification and registration, it would be nice to have access to the EAC research at the conference, even at this late date).

--

\*\*\*\*\*

R. Michael Alvarez

(O)

Professor of Political Science

(F)

Caltech/MIT Voting Technology Project  
California Institute of Technology  
Pasadena, CA 91125


Contributor to Election Updates,

<http://www.eac.gov/Research/Research.htm>

\*\*\*\*\*

028273

Thomas R. Wilkey/EAC/GOV  
01/22/2007 05:40 PM

To Bryan Whitener/EAC/GOV@EAC  
cc Gavin S. Gilmour/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC, Karen  
bcc  
Subject Re: Response Requested - EAC voter ID report 

I think that is exactly what I am saying and what the Commissioners have decided how it would be released.

-----  
Sent from my BlackBerry Wireless Handheld  
Bryan Whitener  
----- Original Message -----


**From:** Bryan Whitener  
**Sent:** 01/22/2007 05:44 PM  
**To:** Thomas Wilkey  
**Cc:** Gavin Gilmour; Jeannie Layson; Juliet Hodgkins; Karen Lynn-Dyson  
**Subject:** Re: Response Requested - EAC voter ID report

Tom,

Regarding the FR notice, it can be short but it must be accurate and complete. We will also include this info in the newsletter on Thursday. Many people feel strongly about this issue and it may well generate news stories regardless of what we do. We must get it right at the beginning and be prepared to answer questions from the public and the media such as: How long have we had it ? Why are we discussing it now ? How much did it cost ? What will EAC do with it or what exactly are the next steps? If this is a report with preliminary research findings together with recommendations for future study, then could EAC acknowledge the findings without accepting them but instead accept recommendations for future study?

Thomas R. Wilkey/EAC/GOV

Thomas R. Wilkey/EAC/GOV  
01/22/2007 05:15 PM

To Gavin S. Gilmour/EAC/GOV@EAC, Bryan  
Whitener/EAC/GOV@EAC  
cc Jeannie Layson/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC, Karen  
Lynn-Dyson/EAC/GOV@EAC  
Subject Re: Response Requested - EAC voter ID report 

Eagleton is submitting it's report as written. There will be a SHORT Executive Summary prepared by staff which will incorporate. Recommendations for. Future study which the Commissioners will be asked to adopt.

The report itself will be presented but not formally adopted but merely released and recommendations adopted.

-----  
Sent from my BlackBerry Wireless Handheld  
Gavin S. Gilmour  
----- Original Message -----

**From:** Gavin S. Gilmour

028275

**Sent:** 01/22/2007 05:16 PM

**To:** Bryan Whitener

**Cc:** Jeannie Layson; Juliet Hodgkins; Karen Lynn-Dyson; Thomas Wilkey

**Subject:** Re: Response Requested - EAC voter ID report

Is Eagleton submitting a report to the EAC or is Eagleton assisting us the development of an EAC report...? I suspect it is the latter. Any statement should reflect this... as should the "briefing."

GG

Gavin S. Gilmour  
Deputy General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

THIS MESSAGE IS FOR ITS INTENDED RECIPIENT ONLY. IT IS A PRIVILEGED DOCUMENT AND SHALL NOT BE RELEASED TO A THIRD PARTY WITHOUT THE CONSENT OF THE SENDER.

Bryan Whitener/EAC/GOV

**Bryan Whitener /EAC/GOV**

01/22/2007 04:55 PM

To Karen Lynn-Dyson/EAC/GOV@EAC

cc Thomas R. Wilkey/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC, Juliet E. Hodgkins/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC

Subject Response Requested - EAC voter ID report

Karen,

We need to publish an FR notice early tomorrow regarding the next public meeting. In light of the recent matter regarding voter fraud, I want to be sure to accurately describe what's happening with the voter ID report item contained in the draft agenda. Please add some perspective about what will and will not be discussed and what, if any, action might be expected. The draft agenda says the following: "Presentation of Eagleton ID Report - "Best Practices to Improve Voter Identification Requirements," John Weingarten, Rutgers University (Time allotted 7-10 minutes; Q & A 5 min.)". What stage are we with this ? (preliminary, final, NOTA, etc.) Just trying to stay ahead of the curve,

Thanks,  
Bryan

[attachment "Public Meeting, 2-08-07, Wash., Draft Agenda.doc" deleted by Thomas R. Wilkey/EAC/GOV]

028276



"Bryan Whitener"  
<bwhitener@eac.gov>  
02/07/2007 01:25 PM

To jlayson@eac.gov

cc

bcc

Subject Media Advisory - EAC to Decide on Voting System Test Lab  
Program & Get Voter ID Research Update



U.S. ELECTION ASSISTANCE COMMISSION  
1225 New York Ave. NW – Suite 1100  
Washington, DC 20005

---

## **MEDIA ADVISORY - *Reminder***

February 7, 2007

Contact: Bryan Whitener  
(202) 566-3100

### **EAC to Decide on Voting System Test Lab Program & Get Voter ID Research Update**

**WHAT: Public Meeting** - Commissioners will receive an update on the full Voting System Laboratory Accreditation Program and consider whether to terminate the interim program. Commissioners will also be briefed on the voter ID research along with an update on EAC's audit process.

**WHO: EAC commissioners, election officials, technical experts and researchers.**

**WHERE: EAC Offices, 1225 New York Ave., Suite 150, Washington, DC**

**WHEN: Thursday, February 8, 10:00 a.m. - 1:00 p.m. (EST)**

**To view the agenda, click here.**

###

*To learn more about the EAC, please visit [www.eac.gov](http://www.eac.gov) .*

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028277

To no longer receive email from us [click here](#).

Karen Lynn-Dyson/EAC/GOV

02/13/2007 11:00 AM

To twilkey@eac.gov

cc Donetta L. Davidson/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC

bcc

Subject Next Steps on the voter ID report

Tom-

Just wanted to check in to determine what, if anything, I need to do in order to assist with the creation and delivery of EAC's report on the Voter ID study.

I assume that we will have to issue something on or about March 8.

K

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

028279

Bryan Whitener /EAC/GOV  
02/15/2007 03:11 PM

To Jeannie Layson/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: voter ID

Just to note, at the Feb 8 meeting, the chair directed exec dir. to provide staff recommendations to commishes within thirty days, but of course we aren't having a March 8 meeting.

----- Forwarded by Bryan Whitener/EAC/GOV on 02/15/2007 03:06 PM -----



"Wolf, Richard"

02/15/2007 02:33 PM

To bwhitener@eac.gov  
cc  
Subject voter ID

Hi Bryan --

Just want to talk to Davidson or another commish on the Eagleton research on voter ID -- their impressions, what they want to see happen on that issue, etc.

Richard Wolf  
Washington correspondent  
USA TODAY  
1100 New York Avenue NW  
Washington, D.C. 20005

[REDACTED]

028230

Bryan Whitener /EAC/GOV  
02/16/2007 05:24 PM

To Donetta L. Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC  
cc Bert A. Benavides/EAC/GOV@EAC, Bola  
Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC,  
Curtis Crider/EAC/GOV@EAC, DeAnna M.

bcc

Subject FYI - Today's media inquiries ( 2-16-07, Frid )

Commissioners:

Today we had the following media inquiries:

(1) The chair was interviewed by Rich Wolfe of USA Today about the voter ID research. She said we discussed the initial findings about voter ID at a public meeting b/c this is such an important issue that impacts voters in every corner of this country. She noted that the new voter ID laws have been enacted in many states in just a few short years, and that the initial work done by Eagleton only covered one election cycle, and she believed we must study this issue over at least two like elections (presidential) to determine if these new laws have had any impact. The chair said based on the initial work conducted by Eagleton, I've instructed staff to present to the commission w/n 30 days a plan for moving forward to continue studying the impact of voter ID. We will immediately release this plan to the public. He then asked about some of the election reform bills in Congress, specifically the points brought up during Sen. Feinstein's hearing. The chair pointed out that we need to make sure timelines are realistic -- election officials need to have time to make sure new laws will work. Implementation doesn't happen overnight. She said we need to make sure we can actually accomplish initiatives within the timeframes prescribed. She said states are always aware that they must first meet certification requirements, conduct mock elections and train staff before introducing new equipment.

(2) Dick Smolka of Election Administration Reports asked if EAC's meeting with voting equipment vendors on Tuesday was in response the Board of Advisors Resolution that EAC collect certain information from them. Brian Hancock replied that this was not the topic of the meeting and that he had not yet been instructed to collect the information requested in the resolution.

(3) Cara Matthews of Gannett News in Albany called to ask the latest about the possible loss of HAVA 102 funds by New York. We said that we are continuing to review the responses from all the states in the order they were received.

####

028281



Jeannie Layson /EAC/GOV

02/20/2007 01:53 PM

To ddavidson@eac.gov

cc

bcc

Subject Interview request

Chris Drew of the NYT wants to talk to you about next steps regarding the voter ID research. He was at the meeting, but missed this segment b/c he had me cornered in the kitchen to discuss the Ciber issue. (This is the reporter who wrote the original story.) Please call him at 212-556-1356. He's writing the article b/c his editor saw the one in USA Today and thinks they should cover it, too. Please reply and let me know you got this. Talking points you used for Rich are below.

1. We discussed the initial findings about voter ID at a public meeting b/c this is such an important issue that impacts voters in every corner of this country.
2. New voter ID laws have been enacted in many states in just a few short years.
3. The initial work done by Eagleton only covered one election cycle, and I believe we must study this issue over at least two like elections (presidential) to determine if these new laws have had any impact.
4. Based on the initial work conducted by Eagleton, I've instructed staff to present to the commission w/n 30 days a plan for moving forward to continue studying the impact of voter ID. We will immediately release this plan to the public.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

028282

Jeannie Layson /EAC/GOV

02/21/2007 12:57 PM

To: jgalloway [REDACTED]

cc

bcc Karen Lynn-Dyson/EAC/GOV@EAC

Subject Voter ID

Mr. Galloway,

Per your inquiry, we have been working with the Eagleton Institute to study issues related to voter ID. We held a public meeting earlier this month in which we discussed this project to provide an update on progress being made. At the meeting, EAC commissioners asked the researchers questions about what they'd found so far, methodology, etc. At the conclusion of the questions, EAC Chair Donetta Davidson instructed EAC staff to take a look at Eagleton's recommendations for moving forward and w/n 30 days present the commissioners with suggestions for further research about voter ID laws. She noted that she thought it was important to study more than one election cycle, since some of these ID laws are so new. Go [here](#) to view the testimony Eagleton presented at the meeting, and go [here](#) to read the Eagleton paper, in which they referenced some of the data they had collected on our behalf.

For your information, EAC is an independent bipartisan commission created by HAVA. It is charged with developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting test laboratories, certifying voting systems and serving as a national clearinghouse and resource of information regarding election administration. The Commission is also responsible for auditing the use of HAVA funds.

Let me know if I can be of further assistance. 202-566-3103.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

028286

Bryan Whitener /EAC/GOV  
02/21/2007 05:47 PM

To Donetta L. Davidson/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC, Paul DeGregorio/EAC/GOV@EAC  
cc Bert A. Benavides/EAC/GOV@EAC, Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC, Curtis Crider/EAC/GOV@EAC, DeAnna M.

bcc

Subject FYI - Today's media inquiries ( 2-21-07, Wed )

Commissioners:

Today we had the following media inquiries:

(1) Commissioner Hillman was interviewed by Charles Edwards of NPR in Atlanta about the Standards Bd. meeting. She explained the role of the board, talked about the agenda, including the visit to Kennesaw, and told him GA SOS Handel is on the board. She provided an overview of our voting system standards setting process and our programs to accredit labs and to test and certify systems. She also talked about the importance of gaining public confidence in the voting equipment they use, and talked about our responsibility to bring more accountability to the process.

(2) Jim Galloway of the Atlanta Journal Constitution wanted the report on voter ID. We explained that we had been working with the Eagleton Institute to study issues related to voter ID. We held a public meeting earlier this month in which we discussed this project to provide an update on progress being made. At the meeting, EAC commissioners asked the researchers questions about what they'd found so far, methodology, etc. At the conclusion of the questions, EAC Chair Donetta Davidson instructed EAC staff to take a look at Eagleton's recommendations for moving forward and w/n 30 days present the commissioners with suggestions for further research about voter ID laws. She noted that she thought it was important to study more than one election cycle, since some of these ID laws are so new. We sent him the Eagleton testimony. He requested info about the paper presented by Eagleton that referenced the statistics they collected for us, and we sent it to him.

(3) Josh Stager of Congressional Quarterly asked for the Eagleton report on voter ID. We referred him to the testimony on our website and explained that the presentation by Eagleton consisted of a briefing to EAC on their research. We said that the commissioners did not vote on or decide anything with regard to the research. We said that the chair asked the executive director to develop staff recommendations regarding the research to present to the commissioners within thirty days.

(4) Ken Vogel of Politico called Curtis and asked if the OIG had researched the qualifications of the two new commissioners. Curtis said no, that was part of the nomination process. The reporter asked if the OIG was looking into the Ciber issue, and Curtis said he could not comment on that.

###

028284

Karen Lynn-Dyson/EAC/GOV  
03/09/2007 10:49 AM

To "Rosemary Rodriguez"  
[REDACTED]  
cc chunter@eac.gov, "Davidson, Donetta"  
<ddavidson@eac.gov>, ghillman@eac.gov,  
jhodgkins@eac.gov, jlayson@eac.gov  
bcc  
Subject Re: Final EAC statement on Voter ID report [REDACTED]

Commissioners-

As requested, Jeannie Layson will take the attached statement and prepare a final version for Commissioner's review and tally vote on Monday.

Regards-

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

"Rosemary Rodriguez"  
[REDACTED]

03/08/2007 05:15 PM

To jhodgkins@eac.gov, klynndyson@eac.gov  
cc jlayson@eac.gov, ghillman@eac.gov, "Davidson, Donetta"  
<ddavidson@eac.gov>, chunter@eac.gov  
Subj Re: Final EAC statement on Voter ID report  
ect

are we now in the 48 hour tally vote period?

----- Original Message -----

From: "jhodgkins@eac.gov" <jhodgkins@eac.gov>  
To: klynndyson@eac.gov  
Cc: jlayson@eac.gov; ghillman@eac.gov; "Davidson, Donetta" <ddavidson@eac.gov>;  
chunter@eac.gov; [REDACTED]  
Sent: Thursday, March 8, 2007 4:35:27 PM  
Subject: Re: Final EAC statement on Voter ID report

028285

Karen,

I started by adopting all of the changes made to the document that you sent me. Then I made edits. Because they are so extensive, I thought it best to note them in track changes. Once you have had a chance to read them over, you can get rid of the formatting problems by "accepting all changes" to the document.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

Karen Lynn-Dyson/EAC/GOV

03/08/2007 12:47 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC  
cc  
Subject Final EAC statement on Voter ID report

Julie/Jeannie-

Attached please find the final version of the EAC statement on the Voter ID report.

As indicated, the Commissioners have asked that you all review this statement for legal accuracy, grammar, syntax, etc, before it is sent to them for final review and approval.

If you could, go ahead and make the edits without track changes (as track changes seem to create printing problems)

Once you all have edited the statement I will send the final version on to them for the tally vote.

Thanks

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005

028286


tel:202-566-3123

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Don't get soaked. Take a quick peek at the forecast  
with the Yahoo! Search weather shortcut.

028287

Jeannie Layson /EAC/GOV  
03/13/2007 09:25 AM


To Gracia Hillman/EAC/GOV@EAC  
cc Karen Lynn-Dyson/EAC/GOV@EAC  
bcc  
Subject Re: Next draft of the Voter ID statement 

I am waiting until I get everyone's changes before I review for grammar. I still have not received Comm. Hunter's changes.

Jeannie Layson  
U.S. Election Assistance Commission  
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Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)  
Gracia Hillman/EAC/GOV



Gracia Hillman /EAC/GOV  
03/13/2007 08:11 AM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc jlayson@eac.gov  
Subject Re: Next draft of the Voter ID statement 

I am comfortable with the latest redraft. However, if there are any changes of substance, even a one word change can be substantive in this document, I will want to see a redraft before it is sent for tally vote.

The statement is well written but there remain some editing issues. Lack of commas, use of the words "which" versus "that." Typo - the word "this" when I think it is supposed to be "his." (I do not consider grammatical and spelling edits as substantive.)

Thanks,

Gracia M. Hillman  
Commissioner  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, DC 20005  
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Fax: 202-566-1392  
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028288

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Bryan Whitener /EAC/GOV  
03/13/2007 06:35 PM

To Donetta L. Davidson/EAC/GOV@EAC,  
[REDACTED] Caroline C.  
Hunter/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC  
cc Bert A. Benavides/EAC/GOV@EAC, Bola  
Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC,  
Curtis Crider/EAC/GOV@EAC, DeAnna M.  
bcc

Subject FYI - Today's media inquiries ( 3-13-07, Tues )

Commissioners:

Today we had the following media inquiries:

(1) Marie Cocco of the Washington Post Writers Group (syndicated columnists) called asking about our voter fraud report and the voter ID report. She wanted to know about reports that we had refused to release the voter fraud data. (This is prompted by accusations that refusals to aggressively pursue voter fraud was an issue in the recent firing of some federal prosecutors.) Regarding the voter ID project, we directed her to the testimony from the public meeting, and said that EAC Chair Donetta Davidson requested that staff review the initial research provided by Eagleton and produce a final report, which would include recommendations for further study on this subject. Currently, staff is working to finalize the voter ID report. Regarding the voter fraud and intimidation research, we said that at a May 2006 public meeting of our Standards Board and Board of Advisors, the EAC project manager for this research presented a staff update on the project, and we sent her the document and told her it was given to anyone who asked for it. we explained that the commissioners had adopted a final report, including four recommendations for further study, and sent it to her. we said that as a small agency of 23 employees, including the four commissioners, it is necessary for the agency to contract with consultants to gather the initial data for these projects. After EAC receives the initial data, the agency reviews the data for accuracy and then releases a final report.

(2) Chris Drew of the New York Times wanted to know the status of our voter fraud research, and we directed him to the report on the website.

(3) Steve Terrell of the Sante Fe New Mexican wanted to know what was going on with the NM audit. we checked with Curtis, then told him that our OIG was conducting an audit regarding the expenditure of HAVA funds, and that the audit was requested by the NM SOS.

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028296

Caroline C. Hunter/EAC/GOV  
03/16/2007 11:43 AM

To Juliet E. Hodgkins/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, [REDACTED]  
cc Thomas R. Wilkey/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC, [REDACTED]  
bcc

Subject Re: Voter ID statement

This looks good to me, thank you Julie. Two things- did Eagleton  
approve the 2nd graph and I made a minor change to the 4th bullet as a point of clarification.

Juliet E. Hodgkins

----- Original Message -----

**From:** Juliet E. Hodgkins  
**Sent:** 03/16/2007 09:41 AM EDT  
**To:** Donetta Davidson; Gracia Hillman; Caroline Hunter;  
[REDACTED]  
**Cc:** Thomas Wilkey; Jeannie Layson  
**Subject:** Voter ID statement

Commissioners,

Attached below are two versions of the Voter ID statement. One shows the track changes and the other shows the document having accepted all of those changes (so that it would be easier to read). Jeannie and Tom have both taken a look at this document and we think that it captures what we discussed on Wednesday.

Please take a look and let me know if this meets with your understanding of what we discussed.

[attachment "Voter ID edited 31507- track changes.doc" deleted by Caroline C. Hunter/EAC/GOV]  
[attachment "Voter ID edited 31507- changes accepted.doc" deleted by Caroline C. Hunter/EAC/GOV]

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

028291



Gracia Hillman/EAC/GOV

03/22/2007 03:29 PM

To Jeannie Layson/EAC/GOV@EAC

cc Karen Lynn-Dyson/EAC/GOV@EAC

bcc

Subject Re: Project allotments

How about if we ask Eagleton for an estimate of the percent of costs they would attribute to the Voter ID portion of the study?

That way we can say the Voter ID study cost approximately X dollars.  
(And deductively, the Prov Vote study cost X dollars.)

Sent from my BlackBerry Wireless Handheld

Jeannie Layson

----- Original Message -----

**From:** Jeannie Layson  
**Sent:** 03/22/2007 02:23 PM EDT  
**To:** Gracia Hillman  
**Cc:** Karen Lynn-Dyson  
**Subject:** Re: Project allotments

\$560,002

Jeannie Layson  
U.S. Election Assistance Commission  
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Phone: 202-566-3100  
www.eac.gov  
Gracia Hillman/EAC/GOV



Gracia Hillman/EAC/GOV

03/22/2007 01:17 PM

To Jeannie Layson/EAC/GOV@EAC

cc Karen Lynn-Dyson/EAC/GOV@EAC

Subject Re: Project allotments

What is the (total) dollar amount of the contract?

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** Jeannie Layson  
**Sent:** 03/22/2007 10:59 AM EDT  
**To:** Gracia Hillman  
**Cc:** Karen Lynn-Dyson  
**Subject:** Project allotments

023292

Commissioner,

Per your question about how much of the contract was actually spent on voter ID research vs provisional voting... I have yet to find the answer. I have reviewed the RFP and the invoices, but so far, it does not appear that these tasks were tracked separately. Karen and I continue to look into this, but I wanted to let you know what we've found so far.

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